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सं. 16] नई दिल्ली, जून 26—जुलाई 2, 2005, शनिवार/आषाढ़ 5—आषाढ़ 11, 1927
No. 16] NEW DELHI, JUNE 26—JULY 2, 2005, SATURDAY/ASADHA 5—ASADHA 11, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 24 मई, 2005

आ. अ. 74.—लोक प्रतिनिधित्व अधिनियम 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग 2004 की निर्वाचन अर्जी संख्या 5 में मद्रास उच्च न्यायालय के तारीख 1-4-2005 के आदेश को इसके द्वारा प्रकाशित करता है।

(आदेश इस अधिसूचना के अंग्रेजी भाग में छपा है।)

[संख्या 82/त. ना.-लो. स./5/2004]

आदेश से,

तपस कुमार, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 24th May, 2005

O.N. 74.—In pursuance of Section 106 of the Representation of the People Act, 1951(43 of 1951), the Election Commission hereby publishes the order of the High Court of Madras dated 01-4-2005 in Election Petition No. 5 of 2004.

IN THE HIGH COURT OF JUDICATURE AT
MADRAS

(Ordinary Original Civil Jurisdiction)

Friday, 1st Day of April, 2005

CORAM:

THE HON'BLE MR. JUSTICE A.
KULASEKARAN

Election Petition No. 5 of 2004

AND

Original Application No. 881 of 2004

Election Petition

N.R. GOVINDARAJAR,

S/o. S. Ramasamy Gounder,

J.J. Nilayam,

Nerinjipettai. P.O.,

Bhavani Taluk,

Erode District 638 326. . . . Petitioner

Vs

1. E.V.K.S. Elangovan,
S/o. Late, E.V. K. Sampath,
No. 5, New Town Planning Scheme Road,
Raja Annamaiarpuram,
Manadaveli,
Chennai-600028.
2. K.K. Muthusamy
3. B. K. Arul Jothe
4. Smt. Malathi Shanmugam
5. N. Kannian
6. S.R. Karuppusamy
7. S. Selvan
8. P. Perumal
9. S. Muthan
10. A.M. Sheik Davood
11. Shaik Muhaideen
12. The Returning Officer/District Collector,
Gobichettipalayam Parliamentary
Constituency Erode District.
13. The Election Commission of India
rep. by its Secretary
Nirvachan Sadan,
Ashoka Road,
New Delhi-110001. . . . Respondents

The Petition praying that this Hon'ble court be
pleased,

(a) to declare the Election of the returned Candidate
i.e. the 1st respondent herein as void and bad in law for
Improper acceptance of his nomination papers to contest
from No. 19 Gobichettipalayam Parliamentary Constituency
by the 12th respondent,

(b) and without prejudice to the above prayer, to
declare the election of the returned candidate viz, 1st
respondent herein is null and void as vitiated by corrupt
practices and set aside the same.

(c) to grant further relief or reliefs, and

(d) costs of the petition.

Original Application No. 881 of 2004

E.V.K.S. Elangovan . . . Applicant

vs

1. N. R. Govindarajar . . . Respondent/
Election petition
2. K.K. Muthusamy
3. B. K. Arul Jothe
4. Smt. Malathi Shanmugam
5. N. Kannian
6. S. R. Karuppusamy
7. S. Selvan
8. P. Perumal
9. S. Muthan
10. A. M. Sheik Davood
11. Shaik Muhaideen
12. The Returning Officer/District Collector
Gobichettipalayam Parliamentary
Constituency Erode District.
13. The Election Commission of India
rep. by its Secretary
Nirvachan Sadan,
Ashoka Road,
New Delhi-110001. . . . Respondents

Original Application praying that this Hon'ble Court
be pleased to strike out the allegations contained in
paragraphs 5 to 18 in the Election Petition No. 5 of 2004 and
consequently dismiss the Election Petition No. 5 of 2004.

The above Original Application alongwith Election
Petition coming on for hearing before this court on various
dates and finally on 24-3-2005, and upon reading the Judge's
Summons. affidavit filed by the applicant and counter
affidavit filed by the first respondent/Election

Petitioner in O.A. 881 of 2004 and upon reading the Election Petition and documents filed thereto, and upon hearing the arguments of Mr. R. Thiagarajan, Senior Advocate for Mr. A.P. Surya Prakasam, counsel for the Applicant in O.A. No. 881 of 2004 and of Mr. R. Thiagarajan, counsel for the first respondent/Election Petitioner, and of Mr. M.R. Raghavan counsel for the Respondents 12 and 13 and respondents 2 to 11 not appearing either in person or by advocates and having stood over for consideration till this day and this Court made the following **ORDER** :

The applicant herein, who is the first respondent in Election Petition No. 5 of 2004, has filed this application under Order 14 Rule 8 of O.S. Rules read with Section 83(1) (a) and Sec. 86 of the Representation of People Act, Order 6 Rule 16 and Order 7 Rule 11 CPC, praying for striking out the allegations contained in Paragraph Nos. 5 to 18 in Election Petition No. 5 of 2004 and consequently dismiss the Election Petition No. 5 of 2004.

2. The first respondent herein has filed the above Election Petition No. 5 of 2004 under Section 80 read with Sections 100 (1)(b), 100(1)(d), 101 and 123 of the Representation of People Act, 1951 (hereinafter called as 'RP Act') praying to declare the election of the returned candidate i.e., the first respondent herein as void and bad in law for improper acceptance of his nomination papers to contest from No. 19, Gopichettipalayam Parliamentary Constituency by the 12th respondent; and to declare the election of the returned candidate i.e., the first respondent herein as null and void as vitiated by corrupt practice and set aside the same.

3. For the sake of convenience, the returned candidate shall hereinafter be referred to as applicant and the election petitioner shall be referred to as the first respondent.

4. The facts leading to filing of the election petition and which are essential for disposal of the original application are mentioned hereunder.

5. The applicant herein and the respondents 1 to 11 have contested in the election held on 10-5-2004 for No. 19, Gopichettipalayam Constituency. Necessary notification was issued fixing the date for filing nomination between 16-4-2004 and 23-4-2004; scrutiny of nomination papers on 24-4-2004 and the last date for withdrawal of nomination at 3.00 p.m. on 26-4-2004. The first respondent herein has filed his nomination papers on 22-4-2004 as a candidate of the All India Anna Dravida Munnetra Kazhagam. The applicant herein has filed his nomination papers as a candidate of All India National Congress Party on 19-4-2004. The respondents 2 to 4 were fielded by other political parties and the respondents 5 to 11 contested as independent. The election was held on 10-5-2004 and counting of votes took place on 13-5-2004 and the results were declared on the same day in which the applicant herein

was declared as elected and the first respondent herein secured the second position.

6. The present application has been filed to strike out the allegations contained in paragraphs 5 to 18 in the Election Petition and consequently dismiss the election petition. Paragraph Nos. 5 to 18 in the election petition are extracted hereunder :—

"5. The petitioner submits that the first respondent herein is a member of Indian National Congress which is a recognised National Party. The petitioner further states that during the scrutiny of nominations on 24-4-2004, his agent and proposers raised serious objections before the 12th respondent herein seeking to reject the nomination of the first respondent herein. The true copy of the Written objections filed on behalf of the petitioner herein before the 12th respondent is filed herein. It may kindly be treated as part and parcel of this Election petition for better and proper appreciation of the facts of the case. But the 12th respondent herein has simply rejected the said objection of the petitioner's agent.

6. The petitioner submits that the 12th respondent, without application of mind, has simply rejected the objections filed by the petitioner's agent without going into the root of the question and accepted the nomination of the 1st respondent as a valid one. It is quite wrong, illegal and against the spirit of the Constitution, the Representation of People Act, 1951, the Conduct of Election Rules, 1961 together with the periodical instructions issued by the Election Commissioner of India.

7. The petitioner is just re-producing herein the objections made to the 12th respondent on 24-4-2004 on his behalf for the better and proper appreciation of the facts of the case.

(a) The Congress candidate is one of the Trustees of Venkata Naicker Trust, which is having immovable properties at Erode Town.

(b) The Congress candidate and other family members of late Venkata Naicker were alienating the Trust properties in order to meet the poll expenses of Congress Party candidate and their personal expenses, much against the terms of Trust Deeds dated 17-9-1900 and 12-4-1911, wherein, alienation of property is specifically prohibited. Only the usufructs can be utilised for the purposes specifically mentioned thereunder. Meeting poll expenditure was never thought of by the creator of the Trust.

(c) The Objector further submits that the Congress candidate already sold several properties and spent the sale proceeds towards the poll expenditure and personal expenditures also. Thus he has committed breach of trust attracting the penal provisions under Section 406 of Indian Penal Code.

(d) The properties belonged to Venkata Naicker Trust are treated as the private properties of the Congress candidate. He is issuing receipts as "E.V.K.S. Elangovan Building". The rent received from those properties are not brought to the trust account and they are utilised as his personal income. These buildings are not brought to the list of assets and income by way of rents are not brought to his accounts. The rents received in O. S. No. 485 of 1989 DMC Erode and O.S. No. 316 of 1997 District Munsif Court of Erode are not brought to the Trust Account. This will be proved if the Trust Accounts are produced.

(e) The Objector therefore submits that the Congress candidate has come within the purview of 'corrupt practice' as defined in the Representation of People Act, 1951.

(f) The Congress Candidate having committed corrupt practice is not eligible for the candidature of Lok Sabha.

For the foregoing reasons, the objector prays that the papers of nomination of Thiru. E.V.K.S. Elangovan, the proposed candidate for the All India Congress Party for Gobichettipalayam Constituency be rejected and justice done to the voters of the above constituency.

8. The petitioner states that in Column 4 of Form XXVI, he has deliberately given the wrong place as his residential address and has given the address as No. 161, Kutchery Street, Erode 638 001 and whereas he is living at No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600 028. The petitioner further states that the address, which has been furnished by the 1st respondent in the declaration, is the premises, which is in the occupation of a tenant viz., M/s. Haja Hussain and his Son Sharat Sherif and this could be proved by the fact that the Telephone Bills in respect of Telephone Nos. 2254984 and 2254410 are standing in the name of these tenants at the aforesaid address viz., No. 161, Kutchery Street, Erode 638 001.

9. The petitioner further states that the marriage invitation of the 1st respondent's son viz., Mr. Thirumagan would indicate that the 1st respondent is residing at No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600 028 and whereas he has deliberately given the address at No. 161, Kutchery Street, Erode 638 001 in the declaration filed by him before the 12th respondent herein.

10. The petitioner is advised to state that a voter cannot be a voter in two places. If a voter seeks to indicate his name in a particular constituency, the applicant has to furnish all the details where he is previously a voter and obtain a Chit or produce the Ration Card from the said address and furnish the same to the new place where he is said to have included as a voter, along with a declaration.

The petitioner states that the final list of eligible voters as furnished to the election agent of the petitioner would indicate the name of the 1st respondent in both the places at No. 161, Kutchery Street, Erode 638 001 and No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600 028 as a voter along with his family members.

11. The petitioner is advised to state that when the applicant seeks for inclusion of his name, he has to submit an application in Form No. 6, where he has to necessarily state his current address and the reason for deletion and inclusion of his name in the Voter's list with the present address. In the instant case, the 1st respondent has deliberately and wilfully violated the same which would vitiate the entire election process and subsequent declaration of election result. Since the acceptance of the name of the 1st respondent as an eligible candidate to contest the election to the Parliamentary Constituency itself is illegal, invalid and consequently, the subsequent election process is also vitiated.

12. The petitioner further states that in the affidavit that has been filed by the 1st respondent before the Returning Officer viz., the 12th respondent herein, he has not disclosed about the details of his immovable properties, viz., the location and other material particulars and also the particulars of accounts held by him in various Nationalised banks, which tantamount to providing improper and incomplete details concerning him. Likewise, the 1st respondent has not disclosed the details of insurance policies he had taken in his name and in the names of his family members and his other interest in various firms/companies and the investments made by him/or his family members in several business establishments and the affidavit is silent and laconic and as such, by concealing and suppressing the material facts concerning the 1st respondent, he has indulged in sharp practices and as such, the filing of nomination by him and the acceptance of the same by the 12th respondent would vitiate the election process.

13. The petitioner is further advised to state that when an affidavit is filed before the 12th respondent herein, he is supposed to furnish the details of various companies/firms and other financial institutions where he has an interest. Similarly, the candidate is expected to furnish the material details of all the vehicles owned and possessed by him, including the Registration Numbers, so that the petitioner or the other respondents herein or even the public will be in a position to ascertain whether the candidate has paid all the statutory charges such as road tax due and payable to the owner to the statutory authorities for all his vehicles. Similarly, unless and until the 1st respondent reveals the details of his immovable assets, it would be very difficult for the petitioner and

other respondents to find out whether he is in arrears of any property tax and other dues payable to the revenue/municipal authorities.

14. The petitioner further states that the first respondent has also not furnished the jewellery details held by himself and his family members and as such, the materials furnished by the 1st respondent in the affidavit filed by him are incomplete, inchoate and imperfect and concealing and suppression of such vital information would also vitiate the election process.

15. The petitioner is advised to state that when a duty is enjoined upon the 1st respondent to fill in the declaration form and the Annexures thereto before the Returning Officer viz., 12th respondent herein, the 1st respondent should also set out the reasons and the candidate is not supposed to score off the relevant columns in the said affidavit/declaration. If he does not disclose such details in writing and to resort to scoring off the relevant columns, that would vitiate the election process of submitting the nomination filed along with the affidavit and Annexures and the declaration that has been submitted by the 1st respondent could be construed as illegal, invalid which would vitiate the election proceeding.

16. I am advised to state that the 1st respondent is a former Member of Legislative Assembly and has contested the Parliamentary elections twice and was also former State President/Working President of Tamil Nadu Congress Party and as such, he cannot express his ignorance about the statutory requirements and the formalities to be observed by a prospective candidate while submitting his nomination form before the 12th respondent herein. By not furnishing the relevant materials and particulars as enjoined upon him, the first respondent has committed a fraud on the Election Commission and also fraud on public, which would vitiate the entire election process and the acceptance of the nomination and the subsequent declaration that the first respondent is a successful candidate of the Gobichettipalayam Parliamentary Constituency.

17. When the 1st respondent has got any pecuniary interest in any of the Trust or Organisation, he is expected to disclose the same. But, however, in the instant case, the 1st respondent, who is a Trustee of Venkata Naicker Trust and who is collecting funds from the said Trust and appropriating for himself, has not disclosed the same in the affidavit filed before the 12th respondent. Similarly, it appears that the 1st respondent had received substantial sums of money from the Trust and had Utilised the same for election purposes which

would vitiate the entire election process.

18. Similarly, in column 2 of Form XXVI, the 1st respondent has to disclose in detail about the various criminal cases filed against him within the jurisdiction of the Police, so that such particulars could be verified and the outcome of such proceedings. The petitioner further states that though the 1st respondent has been acquitted by the District and Sessions Judge, Erode by an order dated 30-4-1997, he has not disclosed about the details of his conviction and the sentences passed by the Judicial Magistrate Court, Erode for an offence under Section 147, 148, 448, 427, 323, 324, 506 part 2 and 319 IPC vide his order dated 30-01-1997. The petitioner states that the 1st respondent was convicted on all counts and sentenced for varying periods, besides imposing fine by the Judicial Magistrate Court at Erode.

19. The present original application No. 881 of 2004 has been filed denying the averments made in election petition, particularly in paragraphs 5 to 18 of the election petition, hence, it is appropriate that the contents of the affidavit of the applicant herein to be mentioned in the same manner, which are as follows:—

- (i) The allegations in the above election petition, particularly paragraphs 5 to 18 are liable to be rejected as the same is not supported by any factual or documentary evidence and they are totally concocted. The averments do not disclose any proper cause of action or contain the material facts and particulars or substantiated the allegations with any sort of proof. There is no concise statement of material facts or particulars to enable this Court to adjudicate upon the election petition. The applicant is highly prejudiced and cannot meet the vague allegations of the said material particulars and in view of the deficiency and in absence of pleadings, there is an incomplete cause of action and incomplete allegation. The first respondent failed to comply with the requirements of Section 81 of RP Act, in filing this election petition. The election petition was not verified as required under the provisions of Civil Procedure Code since the first respondent has not specifically mentioned which of the averments of the petition are based on his personal knowledge. The first respondent has not specifically mentioned the names of the relatives of the applicant those who allegedly indulged in corrupt practice in the election.

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- (ii) The applicant denied the averments contained in para-5 of the election petition as incorrect and untrue and stated that no material facts as to why the acceptance of the applicant nomination is bad in law. It is not even alleged that the acceptance of the applicant's nomination has materially affected the election results. The averments are bald without any sort of evidence to support the same. The first respondent has not furnished any supporting evidence or conscience statement or material facts or particulars hence such an averment is not a valid ground to maintain the election petition.
- (iii) The averments in para-6 of the election petition were denied by the applicant as incorrect and stated that there was no particulars or natural facts furnished by the first respondent agent before the 12th respondent to support his case. The 12th respondent has rightly rejected the objections raised by the first respondent's agent and accepted the nomination filed by the applicant; that the applicant has not violated any of the provisions of the RP Act or any Rules made thereunder or any of the instructions issued by the Election Commission of India in filing his nomination; that the allegations are vague and concocted to malign the applicant and to file this vexatious election petition, which would amount to abuse of process of law.
- (iv) The averments contained in para-7 of the election petition were denied by the applicant by stating that there was no particular reference or supporting evidence or any detail to support the averment of the first respondent that the 12th respondent has not applied his mind in accepting the applicant's nomination. In the absence of such material facts and particulars, the entire paragraph 6 of the election petition has to be struck off.
- (v) The averments in para-8 of the election petition were denied by the applicant by stating that in Form No. XXVI, he has correctly given his residential address as No. 161, Kutchery Street, Erode where he has been permanently residing for the past several years; that there is no bar in any law for the citizen of this country to reside in more than one place; that there may be several tenants in one building and it does not mean that such a tenant occupies the entire building; that the objections raised are not valid and therefore the 12th respondent rightly rejected the same.
- (vi) The averments in para-9 of the election petition were denied by the applicant by stating that he is permanently residing at No. 161, Kutchery Street, Erode.
- (vii) The averments in para-10 of the election petition were denied by the applicant by stating that he is a voter in both the places at Erode and Chennai, but he registered himself as a voter only at Erode and he neither applied or registered him as a voter at Chennai; that the applicant cast his vote along with family members only at Erode and not at Chennai; that the name found place in more than one constituency does not automatically disqualify a candidate under RP Act and for that reason, invoking Section 100 of RP Act, to declare the election as void is not maintainable.
- (viii) The averments in para-11 of the election petition were denied by the applicant as totally false and untrue.
- (ix) The averments in para-12 of the election petition were denied by the applicant by stating that the applicant has correctly and lawfully furnished the details of the movable and immovable properties and other particulars regarding the assets possessed by him and his family members without suppression; that the first respondent failed to even produce any sort of evidence to justify this averment.
- (x) The averments in para-13 of the election petition were denied by the applicant by stating that the averments contained therein are baseless and totally false.
- (xi) The averments in para-14 of the election petition were denied by the applicant by stating that the applicant had honestly disclosed all the details regarding the jewels and other particulars of assets to the 12th respondent.
- (xii) The averments in para-15 of the election petition were denied by the applicant by stating that whatever required to be declared under Law

were declared by him and the allegations of the first respondent is to be rejected for want of details and supporting evidence.

- (xiii) The averments in para-16 of the election petition were denied by the applicant by stating that the applicant has furnished all the relevant material particulars to the 12th respondent, hence his nomination was accepted by the 12th respondent.
- (xiv) The averments in para-17 of the election petition relates to misuse of funds of Venkata Naicker Trust by the applicant. The said allegations were denied by the applicant by stating that he has neither collected nor misuse any of the funds of the said trust for election purpose and whatever assets have to be declared before the 12th respondent were declared, but the first respondent has not produced any sort of evidence to substantiate the same.
- (xv) The averments in para-18 of the election petition were denied by the applicant by stating that the applicant has correctly and truly given all the particulars regarding pendency of criminal cases filed against him by political opponents, the ruling All India Anna Dravida Munnetra Kazhagam Party, to which the first respondent belongs to; that the applicant was convicted by the trial court in respect of cases furnished by him, which were later set aside by the appellate Court and no stigma or evil consequence can be attached to it, hence, there is no bar for the applicant under any law from contesting the election, which was correctly accepted by the 12th respondent and that he won the election with thumbing majority that the applicant had complied with all the requirements of RP Act and necessary supporting affidavit in Form XXVII and therefore the elections cannot be set aside based on vague allegations of the first respondent; that the first respondent has not stated the provisions under which the election should be declared as void; that the first respondent has not stated how the imaginary allegations levelled in the election petition is materially affecting the results of the election and the first respondent cannot raise any additional grounds or make a rowing enquiry in the election petition; that no new grounds or

particulars by way of amendment cannot be raised or inserted in the election petition after the expiry of the period of limitation.

8. The first respondent has filed is counter affidavit in O.S. No 881 of 2004 as mentioned blow :—

The applicant was residing at No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600 028 but filed his declaration before the 12th respondent stating that he was a residing of No. 161, Kutchery Street, Erode, which address was given deliberately. The particulars furnished in column No. 4 of Form 26 are incorrect as such the applicant has indulged in corrupt practice while filing his nomination before the 12th respondent. The premises at No. 161, Kutchery Street, Erode was in the occupation of a tenant namely M/s. Haja Hussain and his son Sarath Sherif and the telephone numbers 2254984 and 2254410 stood in their name. Necessary telephone bills also filed to prove it. After filing the election petition, the applicant, with the help of muscle men and rodwy elements, by using force, forcefully removed the said tenant with a view to erase the evidence that may be produced to this Court at the time of election petition. Thus, the applicant has deliberately indulged in unfair practice and resorted to sharp practice with a view to secrete the evidence. The applicant also renovated the building after vacating the tenant by using force. All the particulars mentioned in the election petition would amount to material facts, which would depend upon the facts of each case and no hard and fast rules of universal application can be laid down. Necessary material facts and particulars, both oral and documentary evidence will be laid down at the time of trial, which would demonstrate the cause of action for institution of the above election petition. There is no vague or concocted allegations as mentioned by the applicant. To invoke the provisions of Order VI, Rule 16 and the RP Act, the applicant should satisfy the necessary ingredients as set out in the above provisions which are inherently lacking in the present application. The pleading as set out in the main election petition cannot be struck out or amended according to the whims and fancies of the applicant unless the applicant makes out a case that the first respondent made unnecessary, scandalous, fraudulent or vexatious allegations against him or the pleadings which have been made in the election petition may tend to prejudice or delay the fair trial in the main petition or unless the applicant makes out that it is an abuse of process of Court and process of law. To invoke the provisions of Order VII, Rule 11 and RP Act, the applicant has to make out a case that the allegations made by the first respondent in the main Election petition does not disclose a valid cause

of action or from the statement made in the petition to be barred by any Law for the time being or if there is failure to comply with certain statutory provisions. There is clear distinction between the full particulars and also the material facts and the Court cannot dissect pleadings into several parts and struck out a portion which does not disclose the cause of action. The election petition has to be read on the whole and cannot be read in isolation to suit the convenience of the applicant. A perusal of the affidavit of the applicant would indicate that he has not set out any detail how the election petition filed by the first respondent is an abuse of process of the Court. On the contrary, the first respondent is in a position to substantiate the materials, which he has placed before the Court at the time of trial by letting in oral and documentary evidence. As a matter of fact, the tenants who have been in lawful possession of the property have been forcefully driven out from the premises with a view to erase the evidence. Hence, the applicant is not entitled to any indulgence of this Court. The applicant cannot contend by any stretch of imagination that the allegations which the first respondent has made in the election petition are fraudulent or vexatious and are concocted for the purpose of election petition. The first respondent was conscious about the duties and obligations enjoined upon him and with a sense of responsibility only, he has made the allegations against the applicant in the election petition. The allegations that the first respondent has not disclosed the source or materials to substantiate the plea of corrupt practice indulged by the applicant, at this stage would be premature. The applicant should first of all file his objections to the main election petition and the Court has to necessarily formulate the issues and thereafter deal with the matter in accordance with law and in the light of the pleadings and in the light of the documents that may be placed before this Court. The present application has been taken out by the applicant solely with a view to confuse the mind of the Court and to mislead the Court with regard to the various provisions of Law, more to, Sections 83(1)(a) and 86 of the RP Act. The allegations made by the first respondent as against the applicant with regard to the assets and other income of Venkata Naicker Trust and how they have been utilised by the applicant for meeting the poll expenses would be substantiated by him with cogent facts and evidence at the time of trial. It is rather strange that a political leader of a National Party, in which he was holding a very important position as a Working President of the Tamil Nadu Unit till recently, would contend before this Court that he is a permanent resident of No. 161, Kutchery Road, Erode and not having a telephone service connection in the said premises prior to the impugned proceedings which would manifestly prove and establish the falsehood of

the claim of the applicant, which has to be necessarily rejected and thrown out at the threshold in view of the fact that the applicant has deliberately averred a false statement in paragraphs 9 to 11 of his affidavit filed in support of the present application. There is no reason for the first respondent to make out a false allegation or furnish incorrect particulars or details to this Court about the applicant either to mislead or to confuse the minds of the Court. On the contrary, the materials, which the first respondent has placed before this Court are tenable and sustainable and as such they cannot be brushed aside just like that as contended by the applicant. There were criminal cases against the applicant and the allegations which the first respondent has made in the election petition relates only to the proceedings initiated as against him for various offences committed by him under the Indian Penal Code and has he has been convicted and sentenced by various Courts and those are matters to be gone into only at the time of trial as and when the first respondent places necessary evidence to substantiate the statements made by him in the main election petition. The election petition filed by the first respondent contains necessary averments, which would lead to irresistible conclusion of a valid cause of action which would result in the void allegations of the 1st applicant which cannot be contended by any stretch of imagination by the applicant that there is no valid cause of action or the petition does not disclose any valid cause of action for institution of the present proceedings under Sections 80, 80-A, 100 (1) (b), 100 (1) (d), 101 and 123 of the RP Act. The averments made by the applicant in para-12 of his affidavit that he has furnished all the material particulars at the time of filing his nomination papers before the 12th respondent are *per se* false and incorrect to the knowledge of the applicant and the said statement has been made solely with a view to confuse the mind of this Court and side track the issues involved in the main election petition. The applicant herein, instead of filing counter statement in defence of his claim to the main election petition had chosen to file the present application merely taking the various allegations made by the first respondent alleging as if they have been levelled against the applicant without any basis or substance of proof. The Court has to necessarily take into consideration the pleadings in entirety and the applicant cannot expect the Court to read the pleadings in isolation. When the petition filed by the first respondent would raise a plausible, arguable cause at the time of trial, it cannot be considered by any stretch of imagination that the petition do not disclose any valid cause of action for institution of the present proceedings. The applicant has not filed any necessary relevant particulars namely proof of residence and supporting documents such as cooking gas connection,

bank pass book, telephone bill, ration card etc., in support of his contention while seeking the relief of rejection of election petition, but failed to do so. The applicant is a voter in two places at No. 161, Kutchery Street, Erode and No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600028 is substantially true and correct. The applicant cannot be a voter in two constituency simultaneously and the procedure that has been contemplated under the Electoral Rules contemplates that when a person's name is included in a new constituency, his name has to be necessarily deleted in the other constituency and without that, his name cannot be enrolled as a voter in the new constituency. As a matter of fact, the applicant's name has figured in the electoral list released by the Election Officers of the Mylapore Assembly Constituency as well as the Erode Assembly Constituency just before the General Elections for 2004, which would belie the statement made by the applicant as false and prayed for dismissal of the application.

9. Except the first respondent, the other respondents have neither filed any counter nor opposed the application.

10. Mr. Thiagarajan, learned Senior counsel appearing for the applicant has taken me to the various provisions of Civil Procedure Code, Original Side Rules and RP Act. The crux of the argument of the learned Senior counsel is that the right conferred in the matter of election is not a common law right and it is only a statutory right. The right, obligations and remedy ought to have been sought under the RP Act, which was not done by the first respondent herein; that the first respondent has not furnished full particulars relating to the material facts to establish the corrupt practice, which was alleged in the election petition; that the requirements of Section 83 is mandatory and the Court cannot dispense with the same and the first respondent has not satisfied the said requirement; that the allegations in the execution petition are bald, vague and bereft of any material particulars, hence not providing cause of action; that the proceedings in the election petition is quasi criminal in nature and the onus lies on the first respondent to prove the allegations, but he has failed to prove the same; that striking of paragraphs or rejection of election petition can be filed at any stage of the proceedings; that the averments made in the election petition do not satisfy Section 123 of RP Act; that the affidavit filed by the first respondent is not in the format prescribed in Form 25 Rule 94-A of The Conduct of Election Rules, 1961. It is further stated by the learned Senior counsel that the name found in two constituency will not automatically cause disqualification. It is further

stated by the learned Senior counsel that the first respondent has reproduced the objections raised before the 12th respondent and if the said allegations are true, he could have enclosed necessary evidence while filing the election petition, but he failed to do so since the averments are false and there is no bar in contesting in two Constituencies. It is the bounden duty of first respondent to furnish all the material facts, whereas, in this case, the allegations were made by the first respondent to fish out the materials from the applicant, hence the election petition is invalid and liable to be rejected.

11. In support of the above contentions, the learned Senior counsel relied on the below mentioned decisions which runs as follows :—

- (i) [N.P. Ponnusami (appellant) V/s. The Returning Officer, Namakkal Constituency, Namakkal, Salem District and others (respondents); The Union of India and State of Madhya Bharat—interveners] AIR (39) 1952 Supreme Court 64 wherein the Honourable Supreme Court held 11 and 18 thus;—

“11. Part VII outlines the various corrupt and illegal practices which may affect the elections and electoral offences. Obviously, the Act is a self-contained enactment so far as elections are concerned, which means that whenever we have to ascertain the true position in regard to any matter connected with elections, we have only to look at the Act and the rules made thereunder....

18. The points which emerge from this decision may be stated as follows : (1) The right to vote or stand as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it (2) Strictly speaking, it is the right of the legislature to examine and determine all matters relating to the election and of its own members and if the legislature takes it out of its own hands and vests in a special tribunal, an entirely new and unknown jurisdiction, that special jurisdiction should be exercised in accordance with the law which creates it”.

- (ii) (Ch. Subbarao V/s. Member, Elections Tribunal, Hyderabad and others) AIR 1964 Supreme Court 1027 wherein in para-12, it was held thus :—

"13. Though the learned counsel for the appellant made several submissions, we propose to deal with only one, as the same is sufficient for the disposal of this appeal. This was that in the circumstances of the case there had been a substantial compliance with the requirements of Section 81 (3). Before, however, dealing with it, it will be convenient to refer to some of the submissions made to us by the learned Solicitor-General appearing for the contesting respondents. He submitted to us certain propositions which however we consider really unexceptionable. He said that an election petition was not to be equated to an election at law or in equity, but that as the rights were purely the creature of statute, if the statute rendered any particular requirement mandatory, the courts possessed and could exercise no dispensing power to waive non compliance. We consider these propositions are sound and it is in the light of these basic positions that we shall proceed to consider whether the omission to add the words "true copy" in the copies which were admittedly exact copies of the petition, constituted a non-compliance with Section 81 (3) as to render the petition liable to be rejected under Section 90(3) of the Act."

(iii) (*Manubhai Nandlal Amersey vs. Popatlal Manilal Joshi and others*) AIR 1969 Supreme Court 734 wherein in para-5, it was held thus:—

"5.....The section is mandatory. Where a corrupt practice is charged against the returned candidate the election petition must set forth full particulars of the corrupt practice so as to give the charge a definite character and to enable the court to understand what the charge is. The charge must be substantially proved as laid down and evidence cannot be allowed to be given in respect of a charge not disclosed in the particulars. On a charge of telling the electors that by giving their vote to the Congress candidate, they would commit sin of go-hatya, evidence cannot be led to prove the charge of telling them that they would commit a sin of Brahma-hatya or the sin of disobeying the command of their religious leader. Section 86 (5) allows amendment of the particulars. It provides that "the High Court may, upon such terms as to cost and otherwise it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition. In *Harish Chandra Bajpai v. Triloki Singh*, 1957 SCR 370 = (AIR 1957 SC 444) the court held that though under the English law the petitioner was not obliged to give the particulars of the corrupt practice in his petition the difference was a matter of form and not of substance and that under Section 83(3) as it stood before 1955 the court could allow an amendment introducing fresh instances of the corrupt practice alleged in the petition. Referring to the English practice the court observed at page 382 : "it is sufficient if the particulars are ordered to be furnished within a reasonable time before the commencement of the trial". Section 83 (3) has been repealed

and is now replaced by Section 86 (5) which forbids any amendment introducing particulars of a corrupt practice not previously alleged in the petition. Assuming that the amendment of March 7, 1967, was permissible under Section 86(5), the question is whether the High Court rightly allowed it. Normally an application for amendment under Section 86(5) should be made within a reasonable time before the commencement of the trial. The Court has power to allow an amendment even after the commencement of the trial, but as a rule leave to amend at a late stage should be given in exceptional cases where the petitioner could not with reasonable diligence have discovered the new facts earlier. Leave to amend will not be given if the petitioner is not acting in good faith or has kept back the facts known to him before the trial started."

(iv) (*Hardwari Lal Vs. Kanwal Singh*) AIR 1972 Supreme Court 515 wherein the Hon'ble Supreme Court held in paragraphs 16, 19, 20, 22 and 23 thus:—

"16. Section 123(7) of the Act is as follows:

"The obtaining or procuring or attempting to obtain or procure by a candidate or his agent or by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election from any person in the service of the Government and belonging to any of the following classes, namely :

Clauses (a) to (g) which need not be set out here."

It has to be noticed that the different expressions obtaining, procuring, abetting or attempting to obtain or procure are various forms of corrupt practices. It has to be found as to whether the allegation of obtaining assistance amounts to an allegation of fact. It will be well settled that general expressions like "fraudulently", "negligently" or "maliciously" in pleadings do not amount to any allegation of fact. A fact is after all not a mere word.

19.First, Section 83 of the Act is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. Second, omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. Third, the function of particulars is to present in full a picture of the cause of action to make the opposite party understand the case he will have to meet. Fourth, material facts and particulars are distinct matters. Material facts will mention statements of fact and particulars will set out the names of person with the date, time and place. Fifth, material facts will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action. Sixth, in stating the material facts it will not do merely to quote the words of the section because then the efficacy of the material facts will be lost. The fact which constitutes a corrupt practice must be stated and the fact must be correlated to one of the heads of corrupt practice. Seventh, an election petition without the material facts relating to a corrupt practice is no election petition at all. A petition which merely cites the sections cannot be said to disclose

a cause of action where the allegation is the obtaining or procuring of assistance unless the exact type and form of assistance and the person from whom it is sought and the manner in which the assistance is to further the prospects of the election are alleged as statements of facts.”

20. ...The submission is fallacious for the simple reason that the matter of assistance, the mode of assistance, the manner of assistance, the measure of assistance are all various aspects of fact to clothe the petition with a cause of action which will call for an answer. Material facts are facts which if established would give the petitioner the relief asked for. If the respondent had not appeared could the court have given a verdict in favour of the election petitioner. The answer is in the negative because the allegations in the petition did not disclose any cause of action.

22.The gravamen of the charge of corrupt practice within the meaning of Section 123(7) of the Act is obtaining or procuring or abetting or attempting to obtain or procure any assistance other than the giving of vote. In the absence of any suggestion as to what that assistance was the election petition is lacking in the most vital and essential material fact to furnish a cause of action.

23. Counsel on behalf of the respondent submitted that an election petition could not be dismissed by reason of want of material facts because Section 86 of the Act conferred power on the High Court to dismiss the election petition which did not comply with the provisions of Section 81 or Section 82 or Section 117 of the Act. It was emphasised that Section 83 did not find place in Section 86. Under Section 87 of the Act every election petition shall be tried by the High Court as nearly as may be in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits. A suit which does not furnish cause of action can be dismissed.

(v) (Udhav Singh vs. Madhava Rao Scindia) AIR 1976 Supreme Court 744 wherein in para-20, it was held thus:—

“20. The respondent cannot by consent, express or tacit, waive these provisions or condone a non-compliance with the imperative of Section 82 (b). Even inaction, laches or delay on the part of the respondent in pointing out the lethal defect of non-joinder cannot relieve the Court of the statutory obligation cast on it by Section 86. As soon as the non-compliance with Section 82(b) comes or is brought to the notice of the court, no matter in what manner and at what stage, during the pendency of the petition, it is bound to dismiss the petition in unstinted obedience to the command of Section. 86.”

(vi) (Azhar Hussain V. Rajiv Gandhi) AIR 1986 Supreme Court 1253 (followed AIR 1969 SC 1201) wherein it was held in paragraph Nos. 12 and 22 thus:—

“12. ...The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless and bound to prove abortive should not be permitted to occupy the time of the court and exercise the mind of the respondent. The sword of Damocles need not be kept

hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation the court readily exercises the power to reject a plaint if it does not disclose any cause of action. Or the power to direct the concerned party to strike out unnecessary, scandalous, frivolous or vexatious parts of the pleadings....

....Under the circumstances, there is greater reason why in a democratic set-up, in regard to a matter pertaining to an elected representative of the people which is likely to inhibit him in the discharge of his duties towards the nation, the controversy is set at rest at the earliest, if the facts of the case and the law so warrant. Since the court has the power to act at the threshold the power must be exercised at the threshold itself in case the court is satisfied that it is a fit case for the exercise of such power and that exercise of such powers is warranted under the relevant provisions of law. To wind up the dialogue, to contend that the powers to dismiss or reject an election petition or pass appropriate orders should not be exercised except at the stage of final judgment after recording the evidence even if the facts of the case warrant exercise of such powers, at the threshold, is to contend that the legislature conferred these powers without point or purpose, and we must close our mental eye to the presence of the powers which should be treated as non-existent. The court cannot accede to such a proposition. The submission urged by the learned counsel for the petitioner in this behalf must therefore be firmly repelled.

22. The principle laid down is that the pleading in regard to matters where there is scope for ascribing an alleged corrupt practice to a returned candidate in the context of a meeting of which dates and particulars are not given would tantamount to failure to incorporate the essential particulars and that inasmuch as there was a possibility that witnesses could be procured in the context of a meeting at a place or date convenient for adducing evidence, the High Court should not even have permitted evidence on that point. In other words, no amount of evidence could cure the basic defect in the pleading and the pleading as it stood must be construed as one disclosing no cause of action. In the light of the aforesaid principle laid down by the Supreme Court which has held the field for more than 15 years, the High Court was perfectly justified in reaching the conclusion called into question by the appellant.”

(vii) (Bhagwati Prasad Dixit Ghorewala Vs. Rajeev Gandhi) AIR 1986 Supreme Court 1534 wherein in para Nos. 3 and 4 it was held thus:—

“3. The respondent on receipt of the copy of the election petition filed an application before the High Court of Allahabad to strike off the petition since the grounds made in the election petition were on the face of the petition untenable. The High Court took up for consideration the application made by the respondent for striking off the petition and after hearing the parties proceeded to dismiss the petition, on the ground that it did not disclose any cause of action. The High Court while holding that it could decide the question whether the respondent had ceased to be a citizen of India came to the conclusion that the

respondent had not lost the Indian citizenship by virtue of his marriage with an Italian lady. The High Court further held that membership of Parliament on the date of the election did not amount to a disqualification even though members of Parliament were in receipt of salary and allowances by virtue of such membership and that the appointment of Shri R. K. Trivedi as the Chief Election Commissioner could not be questioned on the ground that he did not possess the qualifications prescribed for the post of a Judge of the Supreme Court of India.

4. ...The Court also came to the conclusion that the remaining grounds alleged by the election petitioner for invalidating the election of Shri Zail Singh were misconceived. It held that the use of Government machinery, abuse of official position and appeal to communal sentiments so long as such appeal did not amount to undue influence were not considered by the legislature to be circumstances which would invalidate a Presidential or a Vice-Presidential election. The Court ultimately held that the averments in the election petition, taken at their face value, did not disclose any cause of action for setting aside the election of the returned candidate on the grounds stated in Section 18(1)(a) of the Presidential and Vice-Presidential Elections Act, 1952. It accordingly dismissed the petition at a preliminary stage. The principle followed by this Court in the above decision is applicable to the present case also."

(viii) [Jaipal Singh Vs. Sumitra Mahajan (Smt.) and another] (2004) 4 Supreme Court Cases 522 wherein it was held in Paragraph Nos. 7 and 11 thus :—

"7. Section 83 deals with contents of petition. It stated that an election petition shall contain a concise statement of material facts, on which the petitioner relies and shall state full particulars of any corrupt practices which the petitioner alleges and which shall be signed by him and verified in the manner laid down in the Code of Civil Procedure. In the case of *Sopan Sukhdeo Sable v. Asstt. Charity Commr.* it has been held that Order 6 Rule 2(1) CPC deals with basic rule of pleadings and declares that the pleading has to state material facts and not the evidence; that there is a distinction between "material facts" and "particulars" and the words "material facts" show that the facts necessary to formulate a complete cause of action must be stated. Omission of single material fact leads to an incomplete cause of action and consequently, the plaint becomes bad. The distinction between "material facts" and "particulars" was brought by Scott, L.J. in *Bruce v. Odhams Press Ltd.* in the following passage : (All ER p. 294)

"The cardinal provision in Rule 4 is that the statement of claim must state the material facts. The word 'material' means necessary for the purpose of formulating a complete cause of action; and if any one 'material' statement is omitted, the statement of claim is bad; it is 'demurrable' in the old phraseology and in the new is liable to be 'struck out' under RSC Order 25 Rules 4 (see *Philipps v. Philipps*); or 'a further and better statement of claim' may be ordered under Rule 7.

The function of 'particulars' under Rule 6 is quite different. They are not to be used in order to fill material gaps in a demurrable statement of claim—gaps which ought to have been filled by appropriate statements of the various material facts which together constitute the plaintiff's cause of action. The use of particulars is intended to meet a further and quite separate requirement of pleading, imposed in fairness and justice to the defendant. Their function is to fill in the picture of the plaintiff's cause of action with information sufficiently detailed to put the defendant on his guard as to the case he had to meet and to enable him to prepare for trial.

11. Before concluding, we may state that several judgments were cited by the learned counsel for the appellant on the question as to what constitutes material facts. It is not necessary to discuss the said judgments as the answer depends on the facts of each case. In all the judgments cited on behalf of the appellant, it has been held by this Court that material facts are primary facts disclosing cause of action and such facts have got to be pleaded and failure to do so shall result in rejection of election petition though defect in material particulars can be cured at a later stage by amendment. In the present case, we are concerned with the applicaiton of the above law to the facts of this case. Hence, it is not necessary for us to burden this judgment with various authorities cited on behalf of the appellant.

(ix) [Baburao Vs. Manikrao and Another] (1999) 5 Supreme Court Cases 38 wherein in para 14 it was held thus :—

"14. On a careful perusal of the relevant provisions, as extracted above, we are of the view that the High Court was right in rejecting the contention of the appellant that the first respondent was disqualified to contest the Nilanga Constituency as his name was found in two constituencies....."

12. Mr. Thiagarajan, learned counsel appearing for the first respondent submits that the application filed under Order VII rule 11 CPC and Order VI Rule 16 read with Section 83 (1)(a) and 86 of the RP Act is not maintainable in Law and on facts and the same is liable to be dismissed in limine; that the applicant was residing at No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600028, but he has filed a declaration before the 12th respondent stating that he is residing at No. 161, Kutchery Street, Erode; that the first respondent had pointed out the said illegality to the 12th respondent while scrutinising the nomination and also in the election petition. Suimilarly, the particulars furnished by him in Clause 4 of Form XXVI is not correct, which amounts to corrupt practice; that the premises at No. 161, Kutchery Street, Erode was in occupation by a tenant namely M/s. Raja Hussain and his son Sharat Sherif and their telephone numbers also furnished to show that the applicant was not residing in the said premises, hence the averment that the applicant is residing permanently at Erode is apparently false; that the applicant has not filed any relevant particulars namely proof

of residence and supporting documents such as cooking gas connection, passbook, telephone bills, ration card etc., that the applicant is a voter in both Madras and Erode constituencies, which is prohibited under Law; that the applicant, without deleting his name in one of the places, retained in both the constituencies, hence the acceptance of the name of the applicant by the 12th respondent as an eligible candidate to contest the election to the parliamentary constituency itself is illegal; that the applicant has not disclosed the details of his movables and immovable properties, their location and other material particulars, details of insurance policies taken in his name and in the name of his family members, interests received from various firms and companies and the investments made by him and his family; that the applicant had indulged in sharp practices and as such the filing of nomination by him and acceptance of the same by the 12th respondent vitiated the election process; that the applicant has not filled up the declaration forms and annexures in the required manner which vitiates the election process; though the applicant is a Trustee of Venkata Naicker Trust and collecting funds from the said trust and appropriated the same for himself, he has not disclosed the same in the affidavit; that the funds collected from the said Trust has been utilised for election purpose; though the applicant has been acquitted by the District and Sessions Judge, Erode, he has not disclosed the details about the conviction and sentenced imposed on him by the Judicial Magistrate, Erode, thus, the entire conduct of election process is vitiated by various material illegalities that had materially affected the results of the election. The learned counsel further submitted that all the said allegations are material facts, which gave a cause of action for filing the election petition; that the said corrupt practices and other allegations levelled against the applicant will be proved in the extensive trial and prayed for dismissal of the application.

13. In support of the above contentions, the learned counsel for the first respondent relied on the below mentioned decisions :—

(i) **(D. Ramachandran Vs. R.V. Janakiraman and others) 1999 (1) CTC 715** wherein in para 8, 9, 10 and 11, it was held thus :—

“8.it is well settled that in all cases of preliminary objection, the test is to see whether any of the reliefs prayed for could be granted to the appellant if the averments made in the petition are proved to be true. For the purpose of considering a preliminary objection, the averments in the petition should be assumed to be true and the court has to find out whether those averments disclose a cause of action or a triable issue as such. The court cannot probe into the facts on the basis of the controversy raised in the counter.

9. Under Order 6 Rule 16, the court is enabled to strike out a pleading (a) which may be unnecessary, scandalous, frivolous or vexatious; or (b) which may tend to prejudice, embarrass or delay the fair trial of

the suit; or (c) which is otherwise an abuse of the process of the court....

10. It is elementary that under Order 7 Rule 11(a) CPC, the court cannot dissect the pleading into several parts and consider whether each one of them discloses a cause of action. Under the Rule, there cannot be a partial rejection of the plaint or petition. See *Roop Lal Sathi v. Nachhattar Singh Gill*. We are satisfied that the election petition in this case could not have been rejected in limine without a trial.

11. Designedly, we are refraining from adverting to the arguments pertaining to each allegation of corrupt practice, lest any observation by us might affect the views of the trial Judge. Suffice it to point out that this Court has repeatedly clarified the difference between “material facts” and “full particulars” and the different consequences of failure to set out either of them. In *L.R. Shivaramagowda v. T.M. Chandrashekar* cited by counsel on both sides, the case-law has been traced and the propositions are reiterated.”

(ii) **(Mahedoorao Sukaji Shivankar vs. Ramaratan Babu and others) (2004) 7 Supreme Court Cases 181** wherein in para Nos. 6, 7 and 8, it was held thus :—

“6. Now, it is no doubt true that all material facts have to be set out in an election petition. If material facts are not stated in a plaint or a petition, the same is liable to be dismissed on that ground alone as the case would be covered by clause (a) of Rule 11 of Order 7 of the Code. The question, however, is as to whether the petitioner had set out material facts in the election petition. The expression “material facts” has neither been defined in the Act nor in the Code. It may be stated that the material facts are those facts upon which a party relies for his claim or defence. In other words, material facts are facts upon which the plaintiff's cause or action of the defendant's defence depends. What particulars could be said to be material facts would depend upon the facts of each case and no rule of universal application can be laid down. It is, however, absolutely essential that all basic and primary facts which must be proved at the trial by the party to establish existence of cause of action or defence are material facts and must be stated in the pleading of the party.

7. But, it is equally well settled that there is distinction between “material facts” and “particulars”. Material facts are primary or basic facts which must be pleaded by the petitioner in support of the case set up by him either to prove his cause of action or defence. Particulars, on the other hand, are details in support of material facts pleaded by the party. They amplify, refine and embellish material facts by giving finishing touch to the basic contours of a picture already drawn so as to make it full, more clear and more informative. Particulars ensure conduct of fair trial and would not take the opposite party by surprise.

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8. Now, in the election petition, the petitioner has stated the details in paragraph 9 to 13 as to corrupt practices adopted by the returned candidate. It was averred that the returned candidate used money power for purchasing votes by distributing cash to voters. He had distributed a large number of *darris* (Carpets), each approximately worth Rs. 600 in Villages Kotjambhara, Keshoroi, Raju Mispiri. In Village Raju Mispiri, an amount of Rs. 600 was paid to the voters. It was also alleged that many villagers were given aluminium utensils by the returned candidate, one of such villages was Vasni, Tehsil Deori. At Village Lendijob, Jashasa, blankets were distributed by the returned candidate. Wine was freely distributed and consignments of wine were escorted by PSI Yadav. It was asserted that 14 boxes each containing 12 bottles were seized after a fax was sent to the Election Commissioner. The consignment was seized from a vehicle by the Election Commissioner. Wine was distributed by the returned candidate all over the constituency and Police Station House Officer, Deori and Lambat. The returned candidate himself was escorting all vehicles transporting wine. The same process was adopted in Salekasa and Amgaon Police Stations. Wine was also distributed in Deori and Chichgad for two days before the polling. What was done by application, Ext. 32 by the election petitioner was to supply particulars in support of the facts stated and allegations made in the election petition. It, therefore, cannot be said that material facts have been set out for the first time in the application, Ext. 32 by the petitioner. Material facts as to the nature of corrupt practice had been set out by the petitioner in the election petition and what was done by him by instituting application, Ext. 32 was to furnish particulars in support of the allegations levelled in the election petition. In our opinion, therefore, it cannot be said that the petition was liable to be dismissed on the ground of absence of setting out material facts in the election petition."

(iii) **[Jaipal Singh Vs. Sumitra Mahajan (Smt.) and another]** (2004) 4 Supreme Court Cases 522, which was also relied on by learned Senior counsel for the applicant, wherein in para-9 it was held thus :—

"9. As to what is the material fact has to be decided in the present case, in the context of the election petition under the said Act. An election petition is a matter of statutory right. In the petition, the key issue was whether the appellant held an office of profit on the date of scrutiny. For that purpose, the appellant ought to have stated that on 13-3-2002 he had requested for waiver of the notice period; that the appointing authority had received the notice on the specified date and that his request for waiver stood granted on the date of scrutiny and he ceased to be a government servant. These were the material facts which the appellant should have pleaded so that the

returned candidates would not be taken by surprise. They were material facts within his knowledge and ought to have been pleaded in the election petition. Lastly, even the letter of the appellant seeking the waiver of the notice period did not form part of the election petition. Hence, the High Court was right in dismissing the election petition for want of material facts."

(iv) **(Borgaram Deuri vs. Premodhar Bora and another)** (2004) 2 Supreme Court Cases 227 wherein in para-10 it was held thus :—

"10. The allegations of corrupt practices are viewed seriously. They are considered to be quasi-criminal in nature. The standard of proof required for proving corrupt practice for all intent and purport is equated with the standard expected in a criminal trial. However, the difference between an election petition and a criminal trial is, whereas an accused has the liberty to keep silent, during the trial of an election petition the returned candidate has to place before the court his version and to satisfy the court that he had not committed the corrupt practice as alleged in the petition. The burden of the election petitioner, however, can be said to have been discharged only if and when he leads cogent and reliable evidence to prove the charges levelled against the returned candidate. For the said purpose, the charges must be proved beyond reasonable doubt and not merely by preponderance of probabilities as in a civil action. (See *Gajanan Krishnaji Bapat v. Dattaji Raghobaji Meghe*, *Surinder Singh v. Hardial Singh*, *R.P. Moidutty v. P.T. Kunju Mohammad and Mercykutty Amma v. Kadavoor Sivadasan*.)"

(v) **(V.S. Achuthanandan vs. P.J. Francis and another)** AIR 1999 Supreme Court 2044 wherein in para 12 it was held thus :—

12. The result of election, in so far as it concerns the returned candidate, the 1st respondent in this case, has been materially affected by (i) corrupt practice committed in the interest of the returned candidate by his agents, election agent and the returned candidate, (ii) by the improper reception of votes which is void and (iii) by the non-compliance with the provisions of the Constitution and the provisions of the Representation of the People Act, 1951 as also rules and orders made under the Act."

It was, therefore, wrongly, found that in the absence of specific pleadings and full particulars of corrupt practices, the election petition deserved rejection as it allegedly did not disclose any cause of action. The trial Judge appears to have equated the cause of action with proof and thus committed an illegality of law requiring interference by us...."

(vi) **(Roop Lal Sathi v. Nachhattas Singh)** AIR 1982 Supreme Court 1559 wherein in para-21, it was held thus :—

"21. The order passed by the High Court directing that paragraphs 4 to 18 of the election petition be struck out cannot be sustained on the terms of Order 6, Rule 16 of the Code. There is no finding reached by the High Court that the averments in paragraphs 4 to 18 of the election petition are either unnecessary, frivolous or vexatious, or that they are such as may tend to prejudice, embarrass or delay the fair trial of the election, nor is there any finding that the averments therein are such as to constitute an abuse of the process of the court. That being so, the High Court had no power to direct the striking out of paragraphs 4 to 18 of the election petition.

(vii) (**Mahendra Pal vs. Ram Dass Malanger and others**) (2000) 1 Supreme Court Cases 261 wherein in para-7, it was held thus :—

"7. The distinction between "material facts" and "material particulars" is indeed important because different consequences follow from a deficiency of such facts or particulars in the pleadings. Failure to plead even a single *material fact* leads to an incomplete cause of action and incomplete allegations of such a charge are liable to be struck off under Order 6 Rule 16 of the Code of Civil Procedure. In the case of a petition suffering from a deficiency of material particulars the court has the discretion to allow the petitioner to supply the required particulars even after the expiry of limitation. Thus, whereas it may be permissible for a party to furnish particulars even after the period of limitation for filing an election petition has expired, with the permission of the court, no material fact unless already pleaded, can be permitted to be introduced, after the expiry of the period of limitation."

(viii) (**Rupadhar Pujari vs. Gangadhar Bhatra**) (2004) 7 Supreme Court Cases 654 wherein in para-8, it was held thus :—

"8. True it is that the relief clause in the election petition in the present case is not very happily worded. The election petitioner would have been better advised to specifically seek a declaration to the effect that he was elected. However, we cannot be oblivious of the fact that panchayat elections are part of Gram Swaraj System. Most of the provisions relating to election and election petitions in the laws governing Panchayats are in *pari materia* with the provisions contained in the Representation of the People Act, 1951. Yet the procedural laws relating to panchayat elections and election petitions cannot be allowed to be interpreted with too much of rigidity and by indulging in hair-splitting. A recent decision by a Constitution Bench in *Sardar Amarjit Singh Kalra v. Pramod Gupta* once again reminds us to remember that laws of procedure are meant to regulate effectively, assist and aid the object of doing substantive and real justice. Procedural laws must be liberally construed to really serve as hand maid of

justice, make them workable and advance the ends of justice. Technical objections which tend to be stumbling blocks to defeat and deny substantial and effective justice should be strictly viewed for being discouraged, except where the mandate of the law inevitably necessitates it."

(ix) (**Manohar Joshi vs. Nitin Bhaurao Patil and another**) AIR 1996 Supreme Court 796 wherein in para-46, it was held thus :—

"46. The High Court failed to appreciate that the only allegation of corrupt practice in this election petition which raised a triable issue is as indicated above and rest of the general averments deficient in requisite pleadings of all the constituent parts of the corrupt practice did not constitute a pleading of the full cause of action and, therefore, had to be ignored and struck out in accordance with Order 6, Rule 16 CPC. However, there being a specific allegation in para 30 of the election petition relating to the returned candidate himself based on his speech made on 24-02-1990, to that extent a triable issue had been raised and had to be decided."

(x) (**Regu Mahesh alias Regu Maheswar Rao vs. Rajendra Pratap Bhani Dev and another**) (2004) 1 Supreme Court Cases 46 wherein in para-12, it was held thus :—

"12. It is, therefore, a settled position in law that defect in verification or an affidavit is curable. But further question is what happens when the defect is not cured. There is gulf of difference between a curable defect and a defect continuing in the verification affidavit without any effort being made to cure the defect."

(xi) (**Chandrakant Uttam Chodankar vs. Dayanand Rayu Mandrakar and others**) (2005) 2 Supreme Court Cases 188 wherein it was held in para Nos. 71, 72 and 80 thus :—

"71. Sub-section (3) of Section 81 or Section 83 (1) of the Act although may or may not mandatory but it is not in dispute that the defects pointed out therein, if any, would be curable. Only when despite opportunities granted such defects are not cured, as would appear from the discussions made hereinafter, that the election petition may be dismissed. Furthermore, correctness or otherwise of a statement made in the election petition would not entail rejection thereof at the threshold or would attract the provisions of Section 86 of the Act.

72. Section 83 of the Act deals with contents of an election petition. Clause (a) of sub-section (1) of Section 83 provides that an election petition shall contain a concise statement of the material facts, where clause (b) thereof provides that in case of corrupt practice full particulars in relation thereto are to be set out. Clause (c) of sub-section (1) of Section 83 provides that an election petition shall be signed

by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of the pleadings i.e., Order 6 Rule 15 CPC. A defective affidavit would not entail in limine dismissal of the election petition. (See *Vijay Laxmi Sadho (Dr) v. Jagdish, G. Mallikarjunappa v. Shamanur Shivashankarappa and Kamalnath v. Sudesh Verma*).

80.Hence, the mandate contained in Section 81 (3) cannot be equated with Section 537 of the Code of Criminal Procedure which makes certain omissions as a curable irregularity. No such concept can be imported into the election law because the object of the law is that the electoral process should not be set at naught and an elected candidate should not be thrown out unless the grounds mentioned in the Act are clearly and fully proved. An election dispute concerns the entire constituency and in a parliamentary constituency it is of paramount importance that duly elected representatives should be available to share the responsibility in the due discharge of their duties. That is why the law provides time bound disposal of election disputes and holds out a mandate for procedural compliance.”

(xii) **Law Lexicon :—**

“Material fact : The ‘material facts’ that are to be stated in pleadings mean those that are ‘material to the party pleading’ [per Lopes, L.J. *Darbyshire v. Leigh*. (1896) 1 Q.B. 554; 65 LJ QB 360]

The word ‘material’ means necessary for the purpose of formulating a complete, cause of action: and if any one ‘material’ fact is omitted, the statement of claim is bad. *Hari Vishnu Kamath v. Election Tribunal*, AIR 1958 MP 168, 171. (*Representation of the People Act, 1951 S. 83*).

14. It is not in dispute that the election petition has been filed within the statutory period of limitation prescribed in Section 81 (1) of RP Act. The first respondent herein has filed the election petition on certain allegations under Section 80 read with Sections 100 (1) (b) 100 (1) (d), 101 and 123 of RP Act.

15. The applicant herein has filed the above O.A. No. 881 of 2004 invoking Order 14 Rule 8 of O.S. Rules read with Sec. 83 (1) (a) and 86 of RP Act and Order VI Rule 16, Order VII Rule 11 of CPC to strike out the allegations contained in paragraphs 5 to 18 of the election petition and consequently to dismiss the election petition.

16. In this context, it is relevant to look into the relevant provisions of the RP Act, which are extracted hereunder :—

“80. **Election Petitions:** No election shall be called in question except by an election petition presented in accordance with the provisions of this part.

83. **Contents of Petition :—**

(1) An election petition. —

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
- (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
- (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings:

PROVIDED that where the petitioner alleges and corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed format in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any Schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

100. **Grounds for declaring election to be void :**

- (1) Subject to the provisions of Sub-section (2) if the High Court is of opinion. —
 -
 - (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or
 -
 - (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or
 - (iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or
 - (iv) by any non-compliance with the provisions of the Constitution or of this Act or any rules or orders made under this Act
- the High Court shall declare the election of the returned candidate to be void.
-

101. **Grounds for which a candidate other than the returned candidate may be declared to have elected.**

If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the High Court is of opinion. —

(a) that in fact the petitioner or such other candidate received a majority of the valid votes or;

(b) that but for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained a majority of valid votes, the High Court shall, after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected.

123. Corrupt Practices

The following shall be deemed to be corrupt practices for the purposes of this Act.—

(1) bribery that is to say—

(A) any gift or promise by a candidate or his agent or by any person with the consent of a candidate or his election agent of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing.

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or

(b) an to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature, or

(ii) an elector for having voted or refrained from voting;

(B) the receipt, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate, or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature :

PROVIDED that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested will become or will be rendered an object divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate :

PROVIDED that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of the candidate or for prejudicially affecting the election of any candidate.

(3B) The propagation of this practice or the commission of sati or its glorification by a candidate or his agent or any other person with the consent of the candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or any other person with the consent of the candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate or in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or any other person with the consent of the candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself the members of his family or his agent) to or from any polling station provided under section 25 or place fixed under sub-section (1) of Section 29 for the poll :

PROVIDED that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of convening him or them to and from any such polling station or place fixed for the poll shall not be

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deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power :

PROVIDED FURTHER that the use of any public transport vehicle or vessel or any tramcar or railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

(6) The incurring or authorising of expenditure in contravention of Section 77.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely—

- (a) gazetted officers;
- (b) stipendiary judges and magistrates;
- (c) members of the armed force of the Union;
- (d) members of the police forces;
- (e) excise officers;

(f) revenue officers other than village revenue officers known as *lanbardars* *malguzars*, *patels*, *deshmukhs* or by any other name, whose duty is to collect land revenue and who are remunerated by a share of, or commission on, the amount of land revenue collected by them but who do not discharge any police functions; and

(g) such other class of persons in the service of the government as may be prescribed :

PROVIDED that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason) such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

(8) Booth capturing by a candidate or his agent or other persons.”

17. Section 80 of the RP Act contemplates that no election shall be called in question except by an election petition presented in accordance with the provisions of part VI. Under Section 81 of RP Act, the election petition may be presented on one or more of the grounds specified in sub-section (1) of Sections 100 and 101 of RP Act. Section 100 (1) (b) of RP Act speaks about the grounds for declaring an election as void when any corrupt practice

has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent. Section 100 (1) (d) says that the result of the election, in so far as it concerns a returned candidate, has been materially affected by the improper acceptance of any nomination, or by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, or by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or by any non-compliance with the provisions of the Constitution or of this Act or any rules or orders made under this act, the High Court shall declare the election of the returned candidate to be void. In the case on hand, the election petition has been filed invoking sub-clause (b) of sub-clause (1) and sub-clause (d) of sub-clause (1) of Section 100.

18. Section 101 of RP Act contemplates the grounds in which a candidate, other than the returned candidate can be declared to have been elected. If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the High Court is of opinion that in fact the petitioner or such other candidate received a majority of the valid votes or that but for the votes obtained by the returned candidate by corrupt practice the petitioner or such other candidate would have obtained a majority of valid votes, the High Court shall, after declaring the election of the returned candidate to be void declare the petitioner or such other candidate, as the case may be, to have been duly elected. The corrupt practices referred to in sub-clause (b) of sub-clause (1) of Section 100 of RP Act are defined in Section 123 of RP Act. If any of the ingredients mentioned in Section 123 of RP Act is not pleaded, there would be no pleading of corrupt practice. Under Section 86 of RP Act, the high Court shall dismiss an election petition which does not comply with the provisions Sections 81, 82 and 117. The Apex Court also held that Section 86 includes Section 83 also.

19. Keeping in view the above decisions and relevant provisions of Law, now I proceed to consider the validity of each and every allegations made by the applicant for seeking the relief of striking of and to reject the election petition.

20. The case of the applicant is that the affidavit filed by the first respondent is not in the format prescribed in Form 25 Rule 94A of the Conduct of Election Rules, 1961 referred to Section 83; that the verification of the election petition is not made in accordance with the provisions of RP Act and Code of Civil Procedure; and the first respondent has not specified as to which of the allegations were true to his personal knowledge and which ones were stated on information. An election petition levelling charge of corrupt practice is required by Law to be supported by an affidavit and the election petitioner is also obliged to disclose the source of information in respect

of the commission of corrupt practice, which becomes necessary to bind the election petitioner to the charge levelled by him and to prevent the returned candidate from being taken by surprise. In the case on hand, an affidavit was failed by the first respondent and the election petition is also verified, but the case of the applicant herein is that the affidavit and verifications were not made as required under Law. In this context, it is relevant to refer to the decision of the Hon'ble Supreme Court reported in (R.P. Modity vs. P.T. Kunju Mohammed) AIR 1991 SCW 4528 wherein in Para-35, it was held thus :

35. All the averments made in paras 1 to 17 of the petition have been stated to be true to the personal knowledge of the petitioner and in the next breath the very same averments have been stated to be based on the information of the petitioner and believed by him to be true. The source of information is not disclosed. As observed by the Supreme Court in *F.A. Sapa v. Singora* the object of requiring verification of an election petition is to clearly fix the responsibility for the averments and allegations in the petition on the person signing the verification and, at the same time, discouraging wild and irresponsible allegations unsupported by facts. However, the defect of verification is not fatal to the petition, it can be cured (see *Murarka Radhey Shyam Ram Kumar v. Roop Singh Rathore* and *A. S. Subbaraj v. M. Muthiah*). In the present case the defect in verification was pointed out by raising a plea in that regard in the written statement. The objection was pressed and pursued by, arguing the same before the Court. However, the petitioner persisted in pursuing the petition without proper verification which the petitioner should not have been permitted to do. In our opinion, unless the defect in verification was rectified, the petition could not have been tried. For want of affidavit in the required form and also for lack of particulars, the allegations of corrupt practice could not have been enquired into and tried at all. In fact, the present one is a fit case where the petition should have been rejected at the threshold for non-compliance with the mandatory provisions of law as to pleadings.

The averments of the applicant is that the affidavit not in the format and verification in the election petition is defective. On perusal, this Court is of the considered view that the said grounds canvassed by the applicant are valid and the judgment referred to above can be made applicable in this context.

21. The averments made by the first respondent before the 12th respondent at the time of scrutiny of nomination and before this Court as well is extracted in paragraph 7 of the election petition. In addition to that, certain other allegations are also made in the election petition.

22. Now I proceed to consider the allegations made in paragraphs 8, 9, 10 and 11 of the election petition. It is averred by the first respondent that in Column 4 of Form XXVI the applicant herein has deliberately given his residential address as No. 161, Kutchery Street, Erode

638 001 and whereas he is living at No. 5, New Town Planning Scheme Road, Raja Annamalaipuram, Mandaveli, Chennai-600028. It is further averred that the applicant has furnished in the declaration mentioning the above said address in which one Haja Hussain and his son Sharat Sherif are residing and the same is supported by telephone bills standing in the name of the said tenant which are filed along with the Election Petition. Further, in the applicant's son's marriage invitation, only the Chennai address was mentioned, whereas he has deliberately given the Erode address in the declaration filed by him before the 12th respondent. Similarly, the name of the petitioner is found in two constituencies namely Erode as well as Chennai. It is further averred that if the applicant seeks for inclusion of his name, he has to submit an application in Form No. 6 stating his previous address and the reason for deletion and inclusion of his name in the voters list at the present address, but he deliberately violated the same and it vitiates the process of election and consequently the declaration of election results is void since the acceptance of the name of the applicant as eligible candidate to contest election to the parliamentary constituency is illegal.

23. The applicant has denied the above averments by stating that in Form No. XXVI, he has correctly given his residential address as No. 161, Kutchery Street, Erode where he has been permanently residing for the past several years; that there is no bar in any law for the citizen of this Country to reside in more than one place; that there may be several tenants in one building and it does not mean that such a tenant alone occupies the entire building; that the objections raised are not valid and therefore the 12th respondent has rightly rejected it; that the applicant has registered himself as a voter only at Erode and he neither applied nor registered him as a voter at Chennai; that the applicant cast his vote along with his family members only at Erode and not at Chennai; that the name found place in more than one constituency does not automatically disqualify a candidate under RP Act.

24. It is stated that in the premises at No. 161, Kutchery Street, Erode, there are several tenants and the name mentioned by the first respondent is one of the tenants and the applicant is also residing in the said address, the first respondent has not produced any evidence to contradict it, hence, there is no bar in any Law for a citizen of this country to reside in more than one address. Hence, I accept the contention that the applicant is permanently residing at Erode.

25. The other averment is that the applicant is a voter in both the places namely Erode and Chennai. This averment was denied by the applicant and stated that he had registered himself as a voter only at Erode and neither he applied nor registered himself as a voter at Chennai and that he cast his vote along with his family members only at Erode and not at Chennai. The apex Court in the decision reported in *Baburao Vs. Manikrao* and another (1999) 5 Supreme Court Cases 38 held in para-15 thus :—

“15. There is nothing to suggest in Section 16 of the 1950 Act that if a person’s name finds a place in more than one constituency that would automatically entail disqualification from contesting in any one of the constituencies. It is relevant to note that Section 2 (1) (e) of the 1951 Act refers to disqualification under Section 16 of the 1950 Act alone while interpreting the word “elector” and has not mentioned any contravention of Section 17 as disqualification. No doubt, Section 17 of the 1950 Act expressly states that no person shall be entitled to be registered in the electoral roll for more than one constituency. But if a person’s name finds a place in more than one constituency does it automatically entail the disqualification under Section 16? We do not think so. Objection under Section 17 could have been successfully raised to prevent Respondent 1’s name from being included in the Nilanga Constituency.

In view of the above judgment, the averment of the first respondent cannot be a valid ground.

26. In paragraph 18 of the Election petition, it is averred by the first respondent herein that in column 2 of Form XXVI, the applicant has to disclose in detail about the various criminal cases filed against him within the jurisdiction of the Police, so that such particulars could be verified. It is further averred that though the applicant has been acquitted by the District and Sessions Judge, Erode by an order dated 30-04-1997, he has not disclosed about the details of his conviction and the sentences passed by the Judicial Magistrate Court, Erode for an offence under Sec. 147, 148, 448, 427, 323, 324, 506 part 2 and 319 IPC vide his order dated 30-01-1997 and that the applicant was convicted on all counts, thus, the entire conduct of election process including the parliamentary election process is vitiated. This was denied by the applicant by stating that the applicant has correctly and truly given all the particulars regarding setting aside of the conviction ordered by the appellate Court in criminal cases filed against him by political opponents, the ruling All India Anna Dravida Munnetra Kazhagam Party, to which the first respondent belongs to and no stigma or evil consequence can be attached to it, hence, there is no bar for the applicant under any law from contesting the election and the 12th respondent has rightly accepted his nomination and he won the election with thumbing majority. It is seen from the above said reply that the applicant was acquitted in all the cases, which details were furnished by him before the 12th respondent. No documentary evidence is placed by the first respondent to disprove the same before this Court. The Honourable Supreme Court in the decision reported in (People Union for Civil Liberties (PUCL) Vs. Union of India) AIR 2003 SC 2363 wherein it was held in para 120 thus:—

“120.It is not uncommon, as one of the learned Senior counsel pointed out that the political personalities are prosecuted for politically related

activities such as holding demonstrations and visited with the punishment of fine or short imprisonment. Information regarding such instances may not be of real importance to the electorate in judging the worth of the relative merits of the candidates. At any rate, it is a matter of perception and balancing of various factors, as observed *supra*. The legislative judgment cannot be faulted merely for the reason that the *pro tempore* directions of this Court have not been scrupulously followed. As regards acquittals, it is reasonable to take the view that such information will not be of much relevance inasmuch as acquittal *prima facie* implies that the accused is not connected with the crime or the prosecution has no legs to stand. It is *factum* of prosecution resulting in the acquittal, the voters/citizens would be able to judge the candidate better. On the other hand, such information in general has the potential to send misleading signals about the honesty and integrity of the candidate.”

Hence, the averments in paragraph 18 of the election petition are not valid in law.

27. Paragraph No. 5 and 6 of the election petition relates to objections raised by the first respondent herein before the 12th respondent at the time of scrutinising the nominations of the applicant. In the said paragraph, there is no specific averment made by the first respondent against the applicant.

28. In para 15 of the Election Petition, it is alleged that the declaration form and Annexures not filled up properly which vitiate the election process. The said averment was denied by the applicant by stating that whatever is required to be declared under Law has been declared by him and he asserted that he filed valid declaration/affidavit. Section 36 relates to scrutiny of nomination. The returning officer examines the nomination papers and shall decide all objections which may be made to any nomination and may either on such objections or on his motion, after such summary enquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds namely that on the date fixed for scrutiny of nomination, the candidate, either is not qualified or is disqualified for being chosen to fill the seat under any of the following provisions that may be applicable namely Article 84, 102, 173 and 191, Part II of RP Act and Section 4 and 14 of the Government of Union Territories Act, 1963 or that there has been a failure to comply with the provisions of Section 33 or 34, that the signatures of the candidate or the proposer on the nomination paper is not genuine. In sub-section (3) of Section 36, it is contemplated that nothing contained in clause (b) or (c) of sub-section (2) shall be deemed to authorise the rejection of nomination of any candidate on the ground of any irregularity in respect of a nomination paper if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed. Sub-section (4) of Section

36 contemplates that a returning officer shall not reject any nomination issued on the ground of any defect which is not of a substantial character. The above said provisions of Section 36 makes it clear that until the defect in the nomination is substantial in character, it shall not be rejected by the returning officer. The grounds mentioned in para 15 is not a defect of a substantial character, hence, I hold that acceptance of nomination of the applicant by the 12th respondent is valid and I reject the averments in para 15 of the election petition as untenable.

29. Paragraph 7 of the Election Petition contains clauses (a) to (f) and para 17 contains allegations of pecuniary interest received by applicant. The sum and substance of the said averments are that the applicant is one of the trustees of Venkata Naicker Trust. It is alleged by the first respondent that the properties of Venkata Naicker Trust were alienated by the applicant herein to meet the poll expenses and personal expenses, which are against the conditions of the trust deed, hence, it amounts to an offence punishable under Section 406 IPC. It is also averred that the rent is being received by the applicant and receipts were issued as "E.V.K.S. Elangovan Building" and the said rent and the rent received in O.S. No. 316 of 1997 on the file of District Munsif Court, Erode are not brought to the Trust Account. These allegations were refuted by the applicant herein in his affidavit as untrue and concocted. It is stated that the first respondent has not even whispered the name of the family members, who alienated the properties or the details of the properties alienated. It is further submitted by the applicant that neither he nor his family members used the assets and income of the said Trust to meet the poll expenses. The first respondent herein has not produced any iota of evidence either before this Court or before the 12th respondent to substantiate the said allegations, but the first respondent has consciously referred the said allegations in para 7 as corrupt practices defined in RP Act. The said averments in para 7 and 17 are bald, vague, bereft of details and material facts set out as required under Section 83 of RP Act, hence the same is untenable.

30. Similarly, in paras 12, 13, 14 and 16 of the Election Petition, the first respondent has averred that the applicant herein has not disclosed to the 12th respondent regarding the movable and immovable properties, their location, accounts in various banks, insurance in his name and in the name of his family members, interest in firms/companies by him and his family members, vehicles owned by him and the details of jewellery which has vitiated the election process. In his reply, the applicant has stated that he has furnished all the particulars of the assets owned by him and his wife without suppression. The first respondent has not produced any evidence to show that the disclosures made by the applicant herein before the 12th respondent are incomplete or suppression of facts, hence the averments do not deserve any consideration.

31. For a corrupt practice is charged against the returning candidate, the election petitioner shall set forth

full particulars of corrupt practice so as to charge a definite character and to enable the Court to understand what the charge is. The charge must be substantially proved as laid and the evidence cannot be allowed to be given in respect of a charge not disclosed in the particulars. Section 123 of RP Act defines corrupt practice. If any of the ingredients mentioned in Section 123 is not pleaded, there would be no pleading of corrupt practice.

32. The object of Section 123 of RP Act is not only to protect any candidate at the election from character assassination and vilification but to maintain the purity and fairness of the election. The framers of the Act were conscious of the fact that some candidate or his agent or persons on his behalf may publish facts in respect of the personal character of the candidate concerned, which are false, with an object to malign such candidate in public during the election in order to affect his prospect at the election. The momentum the mood and the emotional upsurge during the elections are well known and even small things which in normal times may not assume much significance have serious consequences during the elections and affect the minds of the electors and in some cases may be a decisive factor, to seal the fate of one candidate or the other. While pleading corrupt practice, it is mandatory to state material facts or give full particulars.

33. Section 83 is not only procedural but has an object behind it. Section 83 (1) of RP Act contemplates that an election petition shall set forth full particulars of any corrupt practice, including as full a statement as possible all the names of the parties alleged to have committed such corrupt practice on the date and place of commission of each such practice. Hence, Section 83 (1) is mandatory in nature. Followed (**Manubhai Nandlal Amersey vs. Popatlal Manilal Joshi and others**) AIR 1969 Supreme Court 734 and (**Gajanan Krishnaji Bapat and another vs. Dattaji Raghobaji Meghe and another**) AIR 1995 SC 2284, in which it was held that petition must contain a concise statement of material facts and set forth full particulars of the corrupt practice, the source of information and the Court cannot make out a new case. It is also very important to note that allegations relating to period prior to filing of nominations cannot be taken into consideration. A person becomes a candidate for a particular election only after filing nomination as defined in Section 79(b) read with Section 34 of RP Act. The charge of corrupt practice being quasi criminal in nature, to be proved to the satisfaction of the Court by the election petitioner. The onus of proving the ingredients of sub-clause (4) of Section 123 is on the election petitioner, who alleged the commission of corrupt practice under the said sub-section. Followed (**Subash Desai vs. Sharad J. Rao and others**) AIR 1994 Supreme Court 2277 and (**Gajanan Krishnaji Bapat and another vs. Dattaji Raghobaji Meghe and another**) AIR 1995 SC 2284.

34. It is argued by the learned counsel for the first respondent that the election petition is not liable to be dismissed in limine for want of full particulars of corrupt

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practice. In support of this contention, the learned counsel relied on the decision of the Apex Court reported in (**V.S. Achudanandan vs. P. J. Francis and another**) 1999 (3) SCC 737 wherein their Lordships have held that “the distinction among the ideas of the ‘grounds’ in Section 81 (1); of ‘material facts’ in Section 83(1) (a) and ‘full particulars’ in Section 83 (1) (b) are obvious. The provisions of Section 83 (1) (a) and (b) are in the familiar pattern of Order VI Rule 2 and 4 and Order VII Rule 1 (e) CPC. While failure to plead material fact is fatal to the election petition, no amendment of the pleading is permissible to introduce such material facts after the time-limit prescribed for filing the election petition, the absence of ‘material particulars’ can be cured at a later stage by an appropriate amendment in terms of Order 6. Rule 17 CPC. Material facts are such primary facts which must be proved at the trial by a party to establish existence of a cause of action. A reasonable cause of action means a cause of action with some chances of success when only the allegations in the pleadings are considered. So long as the claim discloses some cause of action or raises some question fit to be decided by a Judge, the mere fact that the case is weak and not likely to succeed is no ground for striking it out. An election petition is not liable to be dismissed in mine merely full particulars of corrupt practice alleged were not set out. Whether in an election petition a particular fact is a material fact or not and as such, required to be pleaded is a question which depends on the nature of the charge levelled, the ground relied upon, and in the light of the special circumstance of the case.” It is evident from the said judgement that failure to plead material fact is fatal to the election petition and no amendment of the pleading is permissible to introduce such material facts after the time limit prescribed for filing election petition and the absence of material particulars can be cured at a later stage. The said judgment no way improved the case of the first respondent.

35. In view of the above settled principles, I now analyse the averments contained in the remaining paragraphs 7, 17, 12, 13, 14 and 16 of Election Petition, which according to the first respondent are relating to corrupt practice. As mentioned above, corrupt practice is defined in Section 123 of RP Act. If any of the ingredients mentioned in Section 123 is not pleaded, there would be no pleading of corrupt practice. The averments in the said paragraphs are also extracted above and on careful perusal of the same, this Court is of the view that the averments, taken as a whole, not attract Section 123 of RP Act. When the first respondent seeks remedy of declaring the election of the applicant/returned candidate as void and bad in law, invoking Section 100 and 101 of RP Act, it is the bounden duty of the first respondent to put forth the material facts as stated in Section 83 of RP Act. In other words, the election petition shall contain a concise statement of material facts which the petitioner relies and also set forth full particulars of any corrupt practice the

petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of commission of each such practice.

36. In the decision reported in (**Azhar Hussain V. Rajiv Gandhi**) AIR 1986 Supreme Court 1253 the Honourable Supreme Court directed to have a test to find out what are all material facts and particulars. The test required to be answered is whether the Court could give a direct verdict in favour of the election petitioner, in case the returned candidate has not opposed the election petition on the basis of the facts pleaded in the election petition. Indeed, their Lordships have followed (**Manubhai Nandlal Amersey vs. Popatlal Manilal Joshi and others**) AIR 1969 Supreme Court 734. The material facts shall show the grounds of corrupt practice and complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action.

37. On thorough scrutiny of the averments in the election petition, including paragraphs 7, 17, 12, 13, 14 and 16, it is clear that they are bald, vexatious, bereft of details and did not satisfy any of the ingredients of Section 123 and did not comply with the mandatory requirements of Section 83. Nothing pleaded effectively by the first respondent to establish that the act of the applicant materially affected the results of the election. The first respondent has persisted till date that infirmities pointed out by the applicant as irrelevant and did not choose to correct it. An election petition is based on the rights which are purely the creature of statute and statute render any particular requirements mandatory, the Court cannot exercise dispensing powers to waive non-compliance.

38. When applying the above said test and principles pointed out by the Honourable Supreme Court, the entire bundle of averments, including paragraphs 5 to 18 of the election petition are to be held that the mandatory requirements renjoined by Section 83 of RP Act to incorporate the material facts relating to the alleged corrupt practice as defined in Section 123 are not complied with and they do not constitute a complete cause of action or triable issue. Hence, the election petition can be and must be dismissed summarily.

39. In the result, the Original Application No. 881 of 2004 is allowed as prayed for. Consequently, the election Petition No.5 of 2004 is dismissed. No costs. Consequently, connected applications are closed.

Witness the Hon'ble Thiru MARKANDEY KATJU,
Chief Justice at Madras aforesaid, this the 1st day of a
April, 2005.

Sd/-

V. Nallasenapathy
ASSISTANT REGISTRAR (O.S-II)
[No. 82/TN-HP/5/2004]

By Order,
TAPAS KUMAR, Secy.

आदेश

नई दिल्ली, 7 जून, 2005

आ. अ. 75.—यतः निर्वाचन आयोग का समाधान हो गया है कि आन्ध्र प्रदेश राज्य से विधान सभा, 2004 के साधारण निर्वाचन के लिए जो नीचे की सारणी के स्तम्भ (2) में विनिर्दिष्ट निर्वाचन क्षेत्र में हुआ है स्तम्भ (3) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्दीन बनाए गए नियमों द्वारा यथा अपेक्षित उक्त सारणी के स्तम्भ (4) में यथा दर्शित विधि द्वारा अपेक्षित रीति से निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है ;

और, यतः उक्त अभ्यर्थियों ने निर्वाचन आयोग द्वारा सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायौचित्य नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (3) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरर्हित घोषित करता है।

सारणी

क्र. सं.	विधान सभा निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम व पता	निरर्हता का कारण
(1)	(2)	(3)	(4)
1.	8-नागुरु (अ.ज.जा.)	श्री नीम्माला लतछाया थोटा (ग्रा) थान्डीकोन्डा (पो), गुम्मालक्ष्मीपुरम (एम) आन्ध्र प्रदेश।	लेखा दाखिल नहीं किया।
2.	8-नागुरु (अ.ज.जा.)	श्री बीड्डीका पागाडालु, पल्लापुरसीरपी (ग्रा) टी. के. जम्मू (पो) जीय्यम्मावलया (एम) आन्ध्र प्रदेश।	-वही-
3.	8-नागुरु (अ.ज.जा.)	श्री बीड्डीका राधो, चाडानुगुडा (ग्रा) लक्कागुडा (पो) गुम्मालक्ष्मीपुरम (एम) आन्ध्र प्रदेश।	-वही-
4.	9-पार्वतीपुरम	श्री रोवथु थम्मैनायडु, नावीरी ग्राम मारकोन्डापुट्टी (पोआ) गारुगुबिल्ली मंडल विजयानगरम जिला आन्ध्र प्रदेश	-वही-
5.	11-बोबिल्ली	श्री वेंकट अप्पाराव पेन्टा संघा वीधि, बोबिल्ली, आन्ध्र प्रदेश।	-वही-
6.	18-चीपूरुपल्ली	श्री कील्ली राजा मोहन राव सुपुत्र असीरी नायडु, पोंडुरु श्री काकुलम जिला आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
7.	22-भोगापुरम	श्री तिरूमलाराजु सीतारामा राजु डो नं. 4-103, राजुला स्ट्रीट, पुसापति रेगा, पुसापतिरेगा (एम) विजयनगरम जिला, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
8.	46-पिथापुरम	श्री पागु सूर्यराव, सुपुत्र गंगाराजु, डोर नं. 5-204, गोल्लाप्रोलु (ग्रा) गोल्लाप्रोलु (एम) आन्ध्र प्रदेश	-वही-
9.	46-पिथापुरम	श्री रेड्डिम रामाराव, सुपुत्र टाटाराव, डोर नं. 10-2-40ए, गलीगंगालम्मा स्ट्रीट, विथापुरम आन्ध्र प्रदेश	-वही-
10.	47-सामपारा	श्री गोथुला वेंकट सत्यबाणी, डो. नं. 2-27-9, श्रीनगर, काकीनाडा, पूर्व गोदावरी जिला, आन्ध्र प्रदेश	-वही-
11.	47-सामपारा	श्री मुम्मिदी रामबाबू, डो. नं. 2-15 गंगानापल्ली (ग्रा) काकिनाडा ग्रामीण पूर्व गोदावरी जिला। आन्ध्र प्रदेश	-वही-
12.	47-सामपारा	श्री मुष्पीडी सत्यनन्दम, डो. नं. 1-97 बी मदीनापेटा, थिम्मापुरम (ग्रा) काकिनाडा ग्रामीण, पूर्व गोदावरी जिला आन्ध्र प्रदेश	-वही-
13.	49-तल्लारेवु	श्री पेड्डीमसेट्टी वेंकटेश्वर राव (कोंडाबाबू) गोड्डेटीपालेम, करापा मंडल, पूर्व गोदावरी जिला, आन्ध्र प्रदेश	-वही-
14.	49-तल्लारेवु	श्री विन्नाकोटी करूणा गणेश, डोर नं. 2-148ए, कोलांका काजुलुरु मंडल, पूर्व गोदावरी जिला, आन्ध्र प्रदेश	-वही-
15.	50-अनापारथी	श्री नल्लामिल्ली बुलियोहेरेड्डी, कुडुकुलुरु ग्राम, अनापारथी मंडल, आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
16.	52-अलामूरु	श्री बोम्मू वेंकटराव, डो. नं. 3-15-11, आठवां वार्ड, मान्डापेटा, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
17.	54-अलावरम (अ०ज०जा०)	श्रीमती जी० रत्नमणि, पत्नी कोटेश्वरराव, 28-11-7, पीचुकावीधि, जामपेटा राजामुन्दरी, आन्ध्र प्रदेश	-वही-
18.	66-अट्टिली	श्री वेट्टीकुट्टी विश्वेश्वरराव, यूनिक्कीली, अट्टिली मण्डल, आन्ध्र प्रदेश	-वही-
19.	69-देनदुलुरु	श्री मेनडेम सन्तोष कुमार, नरसिम्हापुरम (कांडरीका) देनदुलुरु मण्डल, आन्ध्र प्रदेश	-वही-
20.	69-देनदुलुरु	श्री मन्नापु नागेश्वर राव, वेंकटपुरम पंचायत, इलुरु मण्डल आन्ध्र प्रदेश	-वही-
21.	75-जाम्गायापेट	श्री जक्कुलुरी पुल्लय्या मुचिनथाला (वी) पेनुगनचिप्रोलु (एम) आन्ध्र प्रदेश	-वही-
22.	80-मइलावरम	श्री कोंगाला वन्न कुमार 1-898, ए० कोंडुरु (वी) ए० कोंडुरु (एम) कृष्णा (जिला) आन्ध्र प्रदेश	-वही-
23.	80-मइलावरम	श्री विन्नापाला नाग राजु, 16-136, रामकृष्ण कालोनी, मइलावरम (वी) तथा (एम) कृष्णा (जिला) आन्ध्र प्रदेश	-वही-
24.	83-गन्नावरम	श्री पदमाता ब्रह्मय्या, 3-152 गौडापेट, गन्नावरम, कृष्णा जिला आन्ध्र प्रदेश	-वही-
25.	85-गुडीवाडा	श्री ताल्लुरीपेडा नागेश्वर राव (डेलिफन) डोर संख्या 4/43 बिल्लापाडु, गुडीवाडा मंडल, आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
26.	85-गुडीवाडा	श्री गुडे वेंकटेश्वरराव, डोर संख्या 19/417 बेथावोलु पेडापेटा, गुडीवाडा, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
27.	86-मुदिनेपल्ली	श्री कारे मथैय्य राजू, गुन्नानापुडि, मण्डावल्ली मण्डल, आन्ध्र प्रदेश	-वही-
28.	91-अवानीगड्डा	श्री कोप्पानाथी वेंकटनायणा, हाउस सं० 4-116, विश्वनधापल्ली (वी) कोडुरु मंडल, कृष्णा जिला आन्ध्र प्रदेश	-वही-
29.	106-गुरजाला	श्री इनीमेल्ला विजय भास्कर राव, नरायणपुरम, डाचेपल्ली, आन्ध्र प्रदेश	-वही-
30.	106-गुरजाला	श्री कोटा अंजनेयुलु, इन्दिरा कालोनी, डाचेपल्ली, आन्ध्र प्रदेश	-वही-
31.	138-पुट्टुर	श्री तिरूतानी मुनास्वामी, परामाला, हरिजन वाडा, मिट्टा कानडीगा पोस्ट, रामचन्द्रपुरम मण्डल, आन्ध्र प्रदेश	-वही-
32.	145-थामबल्लापल्ले	श्री देरागंला अंजनेयुलु, बड्डीपल्ले मकान सोमापालने ग्राम, मुलाकातचेरूवु मण्डल, आन्ध्र प्रदेश	-वही-
33.	145-थामबल्लापल्ले	श्री तुगु वेंकटरमण रेड्डी, बालाकावारीपल्ले, मुख्यालय बुराकायालकोटा ग्राम व पोस्ट, मुलाकालाचेरूवु, मण्डल, आन्ध्र प्रदेश	-वही-
34.	147-पिलेरू	श्री डी. आर. कृष्णय्या, पापीरेड्डीगारीपाल्ले, मकान थीटी गुन्टापालेम, सोडुम मंडल आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
35.	151-राजमपेट	श्री ब्राह्ममया पुसुपुलेटी, 5-217, कालोमी स्ट्रीट राजमपेट, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
36.	151-राजमपेट	श्री येरामसेट्टी प्रभाकर, सतुपाल्ली ग्राम, पेनागालुर मण्डल, आन्ध्र प्रदेश	-वही-
37.	151-राजमपेट	श्री मदनापल्ली पेन्चालय्या वड्डेरा, पोली श्रीनिवास कालोनी, राजमपेट, आन्ध्र प्रदेश	-वही-
38.	152-रायचोटी	श्री बादीसेट्टी रवि कुमार, 55/96-ए, हरिनाद स्ट्रीट रायचोटी आन्ध्र प्रदेश	-वही-
39.	152-रायचोटी	श्री मेकान्ति कोडान्डा रामय्या, 4/97-ए मासपेटा रायचोटी, आन्ध्र प्रदेश	-वही-
40.	154-कुड्डापाह	श्री वरादा देवा कुमार, 2/171 अटुकुर ग्राम चिन्ताकोम्माडीन्ने मण्डल, कुड्डापाह जिला आन्ध्र प्रदेश	-वही-
41.	166-पेनुकोन्डा	श्री वाई० आदिनारायण रेड्डी, पोलेपाल्ली रामगिरि मंडल, अनन्तपुर जिला, आन्ध्र प्रदेश	-वही-
42.	166-पेनुकोन्डा	श्री के. चिनप्पा रेड्डी, आर. मरूवापल्ली, रोडाम्म (एम) आन्ध्र प्रदेश	-वही-
43.	166-पेनुकोन्डा	श्री बाथीनेनी चन्द्रायुदु, डो० न० 6-2-734, अनन्तपुर, आन्ध्र प्रदेश	-वही-
44.	172-अनन्तपुर	श्री एस. शिक्षावली डो न० 19-2-485-ए, रानीनगर अनन्तपुर, आन्ध्र प्रदेश	-वही-
45.	172-अनन्तपुर	श्री डी. गोविन्दरेड्डी, डो न० 2-101-2, भोगिनेपल्ली ग्राम, पालेचेरला (पोस्ट), रापाथाडु मण्डल अनन्तपुर जिला, आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
46.	172-अनन्तपुर	श्री जोन्नाकुटी अनन्त वेंकट रेड्डी, वाडियामपेटा ग्राम, बुकाराय समुन्द्रम (मंडल), अनन्तपुर जिला, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
47.	172-अनन्तपुर	श्री जी. नागाराजु, 28/3/66, नवोदय कालोनी, अनन्तपुर, आन्ध्र प्रदेश	-वही-
48.	172-अनन्तपुर	श्री बी. नगासंकर रेड्डी, 18/622 नीरूगांटी स्ट्रीट, पुराना टाउन अनन्तपुर, आन्ध्र प्रदेश	-वही-
49.	172-अनन्तपुर	श्री के. वेंकट रमण 28-454-326 नवोदय कालोनी, अनन्तपुर, आन्ध्र प्रदेश	-वही-
50.	190-कालवाकुरथी	श्री पोगुला जंगय्या मकान न० 3-40, अय्यावारीपल्ली (ग्राम) मिडजिल मंडल महबूब नगर (डी) आन्ध्र प्रदेश	-वही-
51.	206-मुशीराबाद	श्री ओ. वी. प्रमोद रेड्डी, 1-4-879/91 बी, गांधीनगर बैंक कालोनी हैदराबाद आन्ध्र प्रदेश	-वही-
52.	206-मुशीराबाद	श्री कुन्तुमल्ला नारायणस्वामी, 1-8-44/ए 1 स्ट्रीट न. 12 चिकाडापल्ली, हैदराबाद आन्ध्र प्रदेश	-वही-
53.	210-खैरताबाद	श्री एम ए अलीम अमजद मं. नं. 8-3-642 इमामगुडा येल्लारेड्डी गुडा हैदराबाद आन्ध्र प्रदेश	-वही-
54.	210-खैरताबाद	श्री मान्ने नरसिंह राव म. नं. 17-27 जनतानगर मूसापेट शान्तानगर हैदराबाद—18 आन्ध्र प्रदेश	-वही-
55.	211-सिकन्दराबाद छावनी (अ.ज.जा.)	श्री कुटरू कंचना 10-5-413/28 उत्तर लालगुडा सिकन्दराबाद आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
56.	212-मलकपेट	श्री मन्डाडी नरसिम्हा रेड्डी म. नं. 16-11-741/डी/74 एस बी एच कालोनी, मूसाराम बाग, हैदराबाद, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
57.	-वही-	श्री मेहम्मद जहीरुद्दीन अफसर म. नं. 17-2-1196 याकूतपुरा रेन बाजार, हैदराबाद, आन्ध्र प्रदेश	-वही-
58.	-वही-	श्री मो. ताहीर अली मकान नं. 16-9-645 ओल्ड मलकपेट, हैदराबाद, आन्ध्र प्रदेश	-वही-
59.	-वही-	श्री लायक अहमद खान मकान नं. 16-4-320/ए चंचलगुडा, हैदराबाद, आन्ध्र प्रदेश	-वही-
60.	213-आसफनगर	श्री अजहर आलम, मकान नं. 10-3-444/4, विजय नगर कालोनी, हैदराबाद, आन्ध्र प्रदेश	-वही-
61.	-वही-	श्री देसारी रमेश कुर्मा, 11-2-507, कोमलकुंटला कालू कम्पाउंड, हबीब नगर नाला, हैदराबाद, आन्ध्र प्रदेश	-वही-
62.	-वही-	श्री ए. नरसिम्हा रेड्डी, 10-5-64/5/1/ए2/1, आसिफ नगर, हैदराबाद, आन्ध्र प्रदेश	-वही-
63.	-वही-	मो. सलाहुद्दीन, 10-1-1154, ए. सी. गार्ड्स, हैदराबाद, आन्ध्र प्रदेश	-वही-
64.	-वही-	मुमताज मोहम्मद, 10-4-13, हिमायतनगर, आन्ध्र प्रदेश	-वही-
65.	-वही-	श्री माइकल जोसफ, 10-2-18/1 ओल्ड बैण्ड लेनस, बाजारघाट, हैदराबाद, आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
66.	213-आसफनगर	श्री डी. वेंकटेश्वर राव, 11-3-1092, गोकुलनगर, मल्लेपल्ली, हैदराबाद, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
67.	-वही-	श्री जी. शेखर चारी, 12-1-645/5/1, आसिफनगर, हैदराबाद, आन्ध्र प्रदेश	-वही-
68.	-वही-	श्री डी. सत्यनारायण, 10-2-327/34, विजयनगर कालोनी, हैदराबाद, आन्ध्र प्रदेश	-वही-
69.	-वही-	सैयद शहनवाज हुसैनी, 8-1-363/143, आदित्य नगर, टावली चौकी, हैदराबाद आन्ध्र प्रदेश	-वही-
70.	214-महाराजगंज	श्री एम. ए. कादर, मकान नं. 6-1-201, खेरताबाद, हैदराबाद, आन्ध्र प्रदेश	-वही-
71.	-वही-	श्री ए. नरेन्द्र, मकान नं. 1-2-48/1/6, दोमालगुडा हैदराबाद, आन्ध्र प्रदेश	-वही-
72.	-वही-	श्री विजारत अली खान, मकान नं. 14-1-409, अघापुरा, हैदराबाद आन्ध्र प्रदेश	-वही-
73.	-वही-	श्री जे. सुरेश, मकान नं. 13-1-1188/3, मुस्तैदपुरा, कुमारवाडी, हैदराबाद, आन्ध्र प्रदेश	-वही-
74.	-वही-	श्री हबीब उर रहमान, मकान नं. 14-2-512, गोशामहल, हैदराबाद, आन्ध्र प्रदेश	-वही-
75.	-वही-	मोहम्मद अफजल, मकान नं. 9-11-119/7, गोलकुंडा, हैदराबाद, आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
76.	215-कारवां	मोहम्मद अब्दुल अजीम (जावीद) मकान नं. 13-5-790/ए/84/1, दजी गली मुस्तैदपुरा कारवां, हैदराबाद, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
77.	217-चन्द्रायनगुट्टा	श्री अनिल कुमार श्रीवास्तव, मकान नं. 23-6-983/6, शहाली बांदा, हैदराबाद-500065, आन्ध्र प्रदेश	-वही-
78.	218-चारमिनार	श्री एम. मधुसूदन, 19-3-294/2, मीर सागर, हैदराबाद, आन्ध्र प्रदेश	-वही-
79.	228-रामायामपेट	श्री कोंडापुरम बलराज गोड, नरसामपल्ली गांव, पो. नरसिंगी, चेन्नूटा मंडल, मेडक जिला, आन्ध्र प्रदेश	-वही-
80.	-वही-	श्री वी. सन्तोही, मकान नं. 2-5-11, न्यू मार्किट, मेडक, आन्ध्र प्रदेश	-वही-
81.	230-बालकोन्डा	श्री मीरा गंगाराम, मकान नं. 10-22, रामनगर कालोनी, अलूर (वी), अरमोर (एम), आन्ध्र प्रदेश	-वही-
82.	232-कामारेड्डी	श्री ए. शिवाराजू, मकान नं. 3-6-37, जगजीवनराम नगर कालोनी, हरिजनवाडा, कामारेड्डी,	-वही-
83.	-वही-	श्री बी. बलैय्या, मकान नं. 1-3-35, गोडाउन रोड, कामारेड्डी, आन्ध्र प्रदेश	-वही-
84.	235-बंसवाडा	श्री एन. गंगाराम, मकान नं. 2-44/41, कारेगांव (वी) पो. हंगरगा, कोटागिरि (एम) आन्ध्र प्रदेश	-वही-
85.	-वही-	श्री राजाराम काटेके, मकान नं. 8-25, रूडूर (वी) वरनी (एम) पिन-503188 आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
86.	248-मथीनी	श्री भकूया रामू नायक, मकान नं. 1-2-21, एस. टी. कोलोनी, रामागुंडम करीमनगर जिला-505208, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
87.	251-हजुराबाद	श्री बोरिंगे गट्टेयूया यादव, गांव दम्माक्कापेट, एम डी एल हजुराबाद, जिला करीमनगर-505468, आन्ध्र प्रदेश	-वही-
88.	252-कमलापुर	श्री बोबला राजी रेड्डी, मल्लानापल्ली (वी) मुख्यालय घनमुकला, वीमनावन्का (एम) करीमनगर जिला, आन्ध्र प्रदेश	-वही-
89.	252-कमलापुर	श्री गेलू मल्लैयूया, हिम्मतनगर (वी) कोन्डापाका पोस्ट, वीमनावन्का (एम) करीमनगर जिला, आन्ध्र प्रदेश	-वही-
90.	254-करीमनगर	श्री येगुरला महेन्द्र राव किंग, मकान नं. 2-10-526/527 इंडिया किंग, वार्ड नं. 2, ज्योतिनगर, करीमनगर, आन्ध्र प्रदेश	-वही-
91.	254-करीमनगर	श्री कोमिरे राधाबुलु, मकान नं. 4-69/8, थीगालागुट्टापल्ली गांव, करीमनगर (एम) आन्ध्र प्रदेश	-वही-
92.	254-करीमनगर	श्री नरहरि जग्गा रेड्डी, मकान नं. 2-10-196, ज्योतिनगर, करीमनगर, आन्ध्र प्रदेश	-वही-
93.	254-करीमनगर	श्री पकालाराम रेड्डी, थीगालागुट्टापल्ली गांव, करीमनगर मंडल, आन्ध्र प्रदेश	-वही-
94.	255-चोपाडान्डी	श्री गुजुलापरासधू पेगाडापल्ली (वी) एण्ड (एम) जिला करीमनगर आन्ध्र प्रदेश	-वही-

(1)	(2)	(3)	(4)
95.	255-चोपाडाण्डी	श्री थोमू मल्लैय्या, पाथीकुन्दापल्ली मुख्यालय गंगाधारा मंडल गंगाधारा, आन्ध्र प्रदेश	लेखा दाखिल नहीं किया
96.	256-जगतियल	श्री अनुमाला भीमैय्या, मकान नं. 6-6-171, पदभानगर, बुकावाडा जगतियाल, आन्ध्र प्रदेश	-वही-
97.	262-जनगांव	श्री करिगुला रघुबीर रेड्डी, मकान नं. 4-27, थमीरपेट (वी) जनगांव (एम) वारंगल जिला, आन्ध्र प्रदेश	-वही-
98.	262-जनगांव	श्री येरामल्ला भास्कर बाबू, मकान नं. 3-11-69/3 भास्कर कृष्णा निलायान गुंडलागड्डा बाजार, जनगांव (वी) जनगांव (एम) वारंगल जिला, आन्ध्र प्रदेश	-वही-
99.	263-चेन्नूर	श्री मुलाकोण्डैय्या, मकान नं. 4-152, चेन्नूर गांव, पालाकुर्मी मंडल, वारंगल जिला, आन्ध्र प्रदेश	-वही-
100.	273-मूलुगू (अ.ज.जा.)	श्री कोटा नरसिहामु, बुरगुपेट पोस्ट, वेंकटपुर मंडल, वारंगल जिला, फोन 3109891 (पीपी) आन्ध्र प्रदेश	-वही-
101.	277-साथुपल्ली	श्री नल्लांटी रथैय्या, सिदाराम (वी) एण्ड (पोस्ट) साथुपल्ली मंडल, खम्माम जिला, आन्ध्र प्रदेश	-वही-
102.	281-शुजातानगर	श्री बनोथ मांगीलाल नायक, पांगीदी गांव, इरलापुडी पोस्ट, खम्माम (शहरी) मंडल, खम्माम जिला, आन्ध्र प्रदेश	-वही-

1856-६१/२५-९

[सं. 76/आ.प्र.-वि.स./2005]

आदेश से,

तपस कुमार, सचिव

ORDER

New Delhi, the 7th June, 2005

O.N. 75.—Whereas, the Election Commission is satisfied that each of the contesting candidates specified in column (3) of the Table below at the General Election to the Legislative Assembly, 2004 held from the Constituency specified in the column (2) against his/her name has failed to lodge an account of his/her election expenses and failed to lodge the account in the manner required by law as mentioned in column (4) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas the said candidates have either not furnished any reason or explanation for the said failures even after due notice to each of them and the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (3) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

Sl. No.	No. & Name of Assembly Constituency	Name & Address of the Contesting Candidate	Reason for disqualification
1	2	3	4
1.	8-Naguru (ST)	Sh. Nimmala Latchayya, Thota (V), Thandikonda (P), Gummalaxmipuram (M), Andhra Pradesh.	Accounts not lodged
2.	8-Naguru (ST)	Sh. Biddika Pagadalu, Pallapusirpi (V), T. K. Jammu (P), Jiyyammavalasa (M), Andhra Pradesh	-do-
3.	8-Naguru (ST)	Sh. Biddika Radho, Chadunuguda (V), Lakkaguda (P), Gummalaxmipuram (M), Andhra Pradesh	-do-
4.	9-Parvatipuram	Sh. Rowthu Thamminaidu, Naviri Village, Markondaputti (PO), Garugubilli Mandal, Vizianagaram District, Andhra Pradesh	-do-
5.	11-Bobbili	Sh. Venkata Apparao Penta, Sangha Veedhi, Bobbili, Andhra Pradesh	-do-
6.	18-Cheepurupalli	Sh. Killi Raja Mohan Rao, S/o Asiri Naidu, Ponduru, Srikakulam District, Andhra Pradesh	-do-

1.	2	3	4
7.	22-Bhogapuram	Sh. Tirumalaraju Seetharama Raju, Dr. No. 4-103, Rajula Street Pusapatirega, Pusapatirega (M), Vizianagaram District, Andhra Pradesh	Accounts not lodged
8.	46-Pithapuram	Sh. Pamu Suryarao, S/o Gangaraju, D. No. 5-204, Gollaprolu (V), Gollaprolu, (M), Andhra Pradesh	-do-
9.	-do-	Sh. Reddim Ramarao, S/o Tatarao, D. No. 10-2-40A, Galigangalamma Street, Pithapuram, Andhra Pradesh	-do-
10.	47-Sampara	Sh. Guthula Venkata Satyavani, D. No. 2-27-9, Srinagar, Kakinada, East Godavari District, Andhra Pradesh	-do-
11.	-do-	Sh. Mummidi Rambabu, D. No. 2-15, Ganganapalli (V), Kakinada Rural, East Godavari District, Andhra Pradesh.	-do-
12.	-do-	Sh. Muppidi Satyanandam, D. No. 1-97B, Madiga Peta, Thimmapuram (V), Kakinada Rural, East Godavari District, Andhra Pradesh.	-do-
13.	49-Tallarevu	Sh. Peddimsetti Venkateswara Rao (Kondababu), Goddetipalem, Karapa Mandal, E.G. District, Andhra Pradesh.	-do-
14.	-do-	Sh. Vinnakoti Karuna Ganesh, D. No. 2-148A, Kolanka, Kajuluru Mandal, E.G. District, Andhra Pradesh.	-do-
15.	50-Anaparthi	Sh. Nallamilli Bulliahreddy, Kutukuluru Village, Anaparthi Mandal, Andhra Pradesh.	-do-

1	2	3	4
16.	52-Alamuru	Sh. Bommu Venkatrao, D. No. 3-15-11, 8th Ward, Mandapeta, Andhra Pradesh.	Accounts not lodged
17.	54-Allavaram (SC)	Smt. G. Ratnamani, W/o Koteswararao, 28-11-7, Pichukaveedhi, Jampeta, Rajahmundry, Andhra Pradesh	-do-
18.	66-Attili	Sh. Vattikuti Visweswara Rao, Unikili, Attilli Mandal, Andhra Pradesh.	-do-
19.	69-Denduluru	Sh. Mendem Santhosh Kumar, Narasimhapuram (Kandrika) Denduluru Mandal, Andhra Pradesh	-do-
20.	-do-	Sh. Matrapu Nageswara Rao, Venkatapuram Panchayat, Elluru Mandal, Andhra Pradesh	-do-
21.	75-Jaggayyapet	Sh. Jakkuluri Pullaiah Muchinthala (V), Penuganchiprolu (M) Andhra Pradesh	-do-
22.	80-Mylavaram	Sh. Kongala Vajra Kumar, 1-898, A, Konduru (V), A. Konduru (M), Krishna (District), Andhra Pradesh	-do-
23.	-do-	Sh. Vinnapala Naga Raju, 16-136, Ramakrishna Colony, Mylavaram (V) & (M), Krishna (District) Andhra Pradesh	-do-
24.	83-Gannavaram	Sh. Padamata Brahmaiah, 3-152, Gowdapet, Gannavaram, Krishna District, Andhra Pradesh.	-do-
25.	85-Gudivada	Sh. Talluri Peda Nageswara Rao (Dalfin), D. No. 4/43, Billapadu, Gudivada Mandal, Andhra Pradesh	-do-
26.	-do-	Sh. Gude Venkateswara Rao, D. No. 19/417, Bethavolu, Pedapeta, Gudivada, Andhra Pradesh	-do-

1	2	3	4
27.	86-Mudinepalli	Sh. Karre Mathaiah Raju, Gunnanapudi, Mandavalli Mandal, Andhra Pradesh	Accounts not lodged
28.	91-Avanigadda	Sh. Koppanathi Venkatanarayana, H. No. 4-116, Viswanadhapalli (V), Koduru Mandal, Krishna District, Andhra Pradesh	-do-
29.	106-Gurazala	Sh. Inimella Vijaya Bhaskara Rao, Narayanapuram, Dachepalli, Andhra Pradesh	-do-
30.	-do-	Sh. Kota Anjaneyulu, Indira Colony, Dachepalli, Andhra Pradesh	-do-
31.	138-Puttur	Sh. Tiruttani Munaswamy, Paramala Harijana Wada, Mitta Kandiga Post, Ramachandrapuram Mandal, Andhra Pradesh	-do-
32.	145-Thamballapalle	Sh. Derangula Anjaneyulu, Vaddipalle, H/o Sompalle Village, Mulakatacheruvu Mandal, Andhra Pradesh	-do-
33.	-do-	Sh. Tugu Venkataramana Reddy, Balakavaripalle, H/o. Burakayalakota Village and Post, Mulakalacheruvu Mandal, Andhra Pradesh	-do-
34.	147-Pileru	Sh. D. R. Krishnaiah, Papireddigaripalle, H/o Thattiguntapalem, Sodum Mandal, Andhra Pradesh	-do-
35.	151-Rajampet	Sh. Brahmaiah Pasupuleti, 5/217, Kolimi Street, Rajampet, Andhra Pradesh	-do-
36.	-do-	Sh. Yerramsetty Prabhakar, Sathupalli Village, Penagalur Mandal, Andhra Pradesh	-do-
37.	-do-	Sh. Madanapalli Penchalaiah Vaddera, Poli Sreenivasa Colony, Rajampet, Andhra Pradesh	-do-

1	2	3	4
38.	152-Rayachoty	Sh. Badiseti Ravi Kumar, 55/96-A, Harinadh Street, Rayachoty, Andhra Pradesh	Accounts not lodged
39.	-do-	Sh. Mekkanti Kodanda Ramaiah, 4/97-A, Masapeta, Rayachoty, Andhra Pradesh	-do-
40.	154-Cuddapah	Sh. Varada Deva Kumar, 2/171, Utukur Village, Chinthakommadinne Mandal, Cuddapah District, Andhra Pradesh	-do-
41.	166-Penukonda	Sh. Y. Adinarayana Reddy, Polepalli, Ramagiri Mandal, Anantapur District, Andhra Pradesh	-do-
42.	-do-	Sh. K. Chinnapa Reddy, R. Maruvapalli, Rodamm (M), Andhra Pradesh	-do-
43.	-do-	Sh. Bathineni Chandrayudu, Door No. 6-2-734, Anantapur, Andhra Pradesh	-do-
44.	172-Anantapur	Sh. S. Shaikshavali, D. No. 19-2-485-A, Rani Nagar, Anantapur, Andhra Pradesh	-do-
45.	-do-	Sh. D. Govinda Reddy, D. No. 2-101-2, Bhoginepalli Village, Palacherla (Post), Rapthadu Mandal, Anantapur District, Andhra Pradesh	-do-
46.	-do-	Sh. Jonnakuti Ananta Venkata Reddy, Vadiyampeta Village, Bukkarayasamudram, (Mandal), Anantapur District, Andhra Pradesh	-do-
47.	-do-	Sh. G. Nagaraju, 28/3/66, Navodaya Colony, Anantapur, Andhra Pradesh	-do-
48.	-do-	Sh. B. Nagasankar Reddy, 18/622, Neeruganti Street, Old Town, Anantapur, Andhra Pradesh	-do-

1	2	3	4
49.	172-Anantapur	Sh. K. Venkata Ramana, 28-454-326, Navodaya Colony, Anantapur, Andhra Pradesh	Accounts not lodged
50.	190-Kalwakurthy	Sh. Pogula Jangaiah, H. No. 3-40, Ayyawaripally (V), Midjil Mandal, Mahabub Nagar (D), Andhra Pradesh	-do-
51.	206-Musheerabad	Sh. T. V. Pramod Reddy, 1-4-879/91/B, Gandhinagar, Bank Colony, Hyderabad, Andhra Pradesh	-do-
52.	-do-	Sh. Kuntumalla Narayana Swamy, 1-8-44/A/1, Street No. 12, Chikkadpally, Hyderabad, Andhra Pradesh	-do-
53.	210-Khairatabad	Sh. M. A. Aleem Amjad, H. No. 8-3-642 Imamguda Yellareddy Guda, Hyderabad, Andhra Pradesh	-do-
54.	-do-	Sh. Manne Narsing Rao, H. No. 17-27, Janathanagar Moosapet, Sanathnagar, Hyderabad-18, Andhra Pradesh	-do-
55.	211-Secunderabad Cantonment (SC)	Sh. Kuturu Kanchana, 10-5-413/28, North Lalaguda, Secunderabad, Andhra Pradesh	-do-
56.	212-Malakpet	Sh. Mandadi Narasimha Reddy, H. No. 16-11-741/D/74, SBH Colony, Moosarambagh, Hyderabad, Andhra Pradesh	-do-
57.	-do-	Mhod. Zaheeruddin Afsar, H. No. 17-2-1196, Yakutpura, Rein Bazar, Hyderabad, Andhra Pradesh	-do-

1	2	3	4
58.	212-Malakpet	Mohd. Taher Ali, H. No. 16-9-645, Old Malakpet, Hyderabad, Andhra Pradesh	Accounts not lodged
59.	-do-	Laiq Ahmed Khan, H. No. 16-4-320/A, Chanchalguda, Hyderabad, Andhra Pradesh	-do-
60.	213-Asafnagar	Azhar Alam, 10-3-444/4, Vijaya Nagar Colony, Hyderabad, Andhra Pradesh	-do-
61.	-do-	Sh. Dasari Ramesh Kurma, 11-2-507, Komatkunta Kallu Compound, Habeeb Nagar Nala, Hyderabad, Andhra Pradesh	-do-
62.	-do-	Sh. A. Narasimha Reddy, 10-5-64/5/1/A2/1, Asif Nagar, Hyderabad, Andhra Pradesh	-do-
63.	-do-	Mohd. Salahuddin, 10-1-1154, A.C. Guards, Hyderabad, Andhra Pradesh	-do-
64.	-do-	Mumtaz Mohd. 10-4-13, Himayath Nagar, Andhra Pradesh	-do-
65.	-do-	Sh. Micheal Joseph, 10-2-18/1, Old Band Lanes, Bazarghat, Hyderabad, Andhra Pradesh	-do-
66.	-do-	Sh. D. Venkateshwar Rao, 11-3-1092, Gokulnagar, Mallilepally, Hyderabad, Andhra Pradesh	-do-
67.	-do-	Sh. G. Sekhara Chary, 12-1-645/5/1, Asif Nagar, Hyderabad, Andhra Pradesh	-do-
68.	-do-	Sh. D. Satyanarayana, 10-2-317/34, Vijaya Nagar Colony, Hyderabad, Andhra Pradesh	-do-

1.	2	3	4
69.	213-Asafnagar	Syed Shahnawaz Hussaini, 8-1-363/143, Aditiya Nagar, Towli Chowki, Hyderabad, Andhra Pradesh	Accounts not lodged
70.	214-Maharajgunj	Sh. M. A. Qadar, H. No. 6-1-201, Khairtabad, Hyderabad, Andhra Pradesh	-do-
71.	-do-	Sh. A. Narender, H. No. 1-2-48/1/6, Domalguda, Hyderabad, Andhra Pradesh	-do-
72.	-do-	Sh. Vizarath Ali Khan, H. No. 14-1-409, Aghapura, Hyderabad, Andhra Pradesh	-do-
73.	-do-	Sh. J. Suresh, H. No. 13-1-1188/3, Mustaidpura, Kumarwadi, Hyderabad, Andhra Pradesh	-do-
74.	-do-	Sh. Habib-UR-Rahman, H. No. 14-2-512, Goshamahahal, Hyderabad, Andhra Pradesh	-do-
75.	215-Karwan	Mohammed Afzal, H. No. 9-11-119/7, Golconda, Hyderabad, Andhra Pradesh	-do-
76.	-do-	MD Abdul Azeem (Jaweed), H. No. 13-5-790/A/84/1, Darzi Galli, Mustaidpura, Karwan, Hyderabad, Andhra Pradesh	-do-
77.	217-Chandrayangutta	Sh. Anil Kumar Srivastav, H. No. 23-6-983/6, Shahali Banda, Hyderabad-500065, Andhra Pradesh	-do-
78.	218-Charminar	Sh. M. Madhusudhan, 19-3-294/2, Meer Sagar, Hyderabad, Andhra Pradesh	-do-

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1	2	3	4
79.	228-Ramayampet	Sh. Kondapuram Balraj Goud, Narsampally Village, Post : Narsingi, Chegunta Mandal, Medak District, Andhra Pradesh	Accounts not lodged
80.	-do-	Sh. V. Santhohi, H. No. 2-5-11, New Market, Medak, Andhra Pradesh	-do-
81.	230-Balkonda	Sh. Meera Gangaram, H. No. 10-22, Ramnagar Colony, Aloor (V), Armoor (M), Andhra Pradesh	-do-
82.	232-Kamareddy	Sh. A. Shivaraju, H. No. 3-6-37, Jagjeevanram Nagar Colony, Harijanawada, Kamareddy, Andhra Pradesh	-do-
83.	-do-	Sh. B. Balaiah, H. No. 1-3-35, Godown Road, Kamareddy, Andhra Pradesh	-do-
84.	235-Banswada	Sh. N. Gangaram, H. No. 2-44/41, Karegaon (V), P.O. Hangarga, Kotagiri (M), Andhra Pradesh	-do-
85.	-do-	Sh. Rajaram Kateke, H. No. 8-25, Rudrur (V), Varni (M), Pin-503188, Andhra Pradesh	-do-
86.	248-Manthini	Sh. Bhukya Ramu Nayak, H. No. 1-2-21, S. T. Colony, Ramagundam (V&M), Karimnagar, District-505208 Andhra Pradesh	-do-
87.	251-Huzurabad	Sh. Barige Gattaiah Yadav, Village : Dammakkapet, Mdl : Huzurabad, District Karimnagar-505468, Andhra Pradesh	-do-
88.	252-Kamalapur	Sh. Bobbala Raji Reddy, Mallannapally (V), H/o Ghanmukula, Veenavanka (M), Karimnagar District, Andhra Pradesh	-do-

1	2	3	4
89.	252-Kamalapur	Sh. Gellu Mallaiah, Himmathnagar (V), Kondapaka Post, Veenavanka (M), Karimnagar District, Andhra Pradesh	Accounts not lodged
90.	254-Karimnagar	Sh. Yegurla Mahender Rav King, H. No. 2-10-526/527, India King, Ward No. 2, Jyothinagar, Karimnagar, Andhra Pradesh	-do-
91.	-do-	Sh. Komire Raghavulu, H. No. 4-69/8, Theegalaguttapalli Village, Karimnagar (M), Andhra Pradesh	-do-
92.	-do-	Sh. Narahari Jagga Reddy, H. No. 2-10-196, Jyothinagar, Karimnagar, Andhra Pradesh	-do-
93.	-do-	Sh. Pakala Ram Reddy, Theegalaguttapalli Village, Karimnagar Mandal, Andhra Pradesh	-do-
94.	255-Choppadandi	Sh. Gujjula Prasadhu, Pegadapalli (V) & (M), District Karimnagar, Andhra Pradesh	-do-
95.	-do-	Sh. Thoomu Mallaiah, Pathikuntapalli, H. O. Gangadhara Mandal Gangadhara, Andhra Pradesh	-do-
96.	256-Jagtial	Sh. Anumalla Bheemaiah, H. No. 6-6-171, Padmanagar, Bukkawada, Jagtial, Andhra Pradesh	-do-
97.	262-Jangaon	Sh. Karingula Raghuveer Reddy, H. No. 4-27, Shameerpet (V), Jangaon (M), Warangal District, Andhra Pradesh	-do-
98.	-do-	Sh. Yerramalla Bhaskar Babu, H. No. 3-11-69/3, Bhaskar Krishna Nilayam, Gundlagadda Bazar, Jangaon (V), Jangaon (M), Warangal District, Andhra Pradesh	-do-
99.	263-Chennur	Sh. Mula Kondaiah, H. No. 4-152, Chennur Village, Palakurthy Mandal, Warangal District, Andhra Pradesh	-do-

1	2	3	4
100.	273-Mulugu (ST)	Sh. Kota Narsingamu, Burgupet Post, Venkatapur Mandal, Warangal District, Phone 3109891 (PP) Andhra Pradesh	Accounts not lodged
101.	277-Sathupally	Sh. Nallanti Rathaiah, Siddaram (V) & (Post), Sathupally Mandal, Khammam District, Andhra Pradesh	-do-
102.	281-Sujathanagar	Sh. Banoth Mangilal Naik, Pangidi Village, Erlapudi Post, Khammam (Urban) Mandal, Khammam District, Andhra Pradesh	-do-

[No. 76/AP-LA/2005]

By Order,

TAPAS KUMAR, Secy.

नई दिल्ली, 27 जून, 2005

आ.अ. 76.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 1998 की निर्वाचन अर्जी संख्या 4 में इलाहाबाद उच्च न्यायालय, इलाहाबाद के तारीख 01 सितम्बर, 1999 के निर्णय को एतद्वारा प्रकाशित करता है।

(निर्णय इस अधिसूचना के अंग्रेजी भाग में छपा है।)

[सं. 82/उ.प्र.-लो.स./4/98 (इला.)]

आदेश से,

एस. के. कौरा, सचिव

New Delhi, the 27th June, 2005

O.N. 76.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Judgement dated 01st September, 1999 of the High Court of Judicature at Allahabad, Allahabad in Election Petition No. 4 of 1998.

In the High Court of Judicature at Allahabad**Civil Side****Original Jurisdiction**

Dated Allahabad the 01-9-1999

Present

The Hon'ble : O.P. Garg, J.

Election Petition No. 4 of 1998

Jawahir Singh Parihar, son of Shri Gopal Singh Parihar, resident of Village Ason, Block and Tehsil Kapkot, Bageshwar, Almorah.Petitioner

Vs.

Bachi Singh Rawat, Resident of Jaruri Bazar, Ranikhet, Tehsil Rani Khet, District Almorah,

.....Respondent
(Distt. Almorah)**By the Court**

List has been revised, None appears on behalf of the parties.

The absence of the election petitioner indites that he does not want to press this petition.

The election petition is accordingly dismissed.

Dt. 1-9-1999

Sd/-

O.P. GARG, J.

[No. 82/UP-HP/4/98 (Ald.)]

By Order,

S. K. KAURA, Secy.